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JOURNAL

OF THE

Constitutional Convention

OF

WEST VIRGINIA,

ASSEMBLED AT WHEELING

ON TUESDAY, NOVEMBER THE TWENTY-SIXTH, EIGHTEEN HUNDRED

AND SIXTY-ONE.

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WHEELING, VA:

CAMPBELL & M'DERMOT, PRINTERS.

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1861.

Aug. 16, 1932

# MINUTES.

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WHEELING, TUESDAY, November 26th, 1861.

The members of the Convention to frame a Constitution for a new State met in the United States Court Room at 11 o'clock, A. M., and were called to order by Chapman J. Stewart, on whose motion John Hall, of Mason county, was elected temporary Chairman.

On motion of E. H. Caldwell, G. L. Cranmer, of Ohio county, was elected temporary Secretary.

The Secretary called the roll, whereupon the following members answered to their names:

Josiah Simmons, of Randolph county.

James H. Parsons, of Tucker county.

John J. Brown and John A. Dille, of Preston county.

W. T. Willey and H. Dering, of Monongalia county.

E. B. Hall and H. Haymond, of Marion county.

Harmon Sinsel, of Taylor county.

E. J. O'Brien, of Barbour county.

R. L. Brooks, of Upshur county.

J. M. Powell, of Harrison county.

Robert Irvine, of Lewis county.

James H. Brown, of Kanawha county.

W. W. Brumfield, of Wayne county.

Grenville Parker, of Cabell county.

D. S. Montague, of Putnam county.

John Hall, of Mason county.

E. S. Mahon, of Jackson county.

H. D. Chapman, of Roane county.

B. F. Stewart, of Wirt county.

W. W. Warder, of Gilmer county.

A. J. Wilson, of Ritchie county.

P. G. Van Winkle and W. E. Stevenson, of Wood county.

Joseph Hubbs, of Pleasants county.

Abraham D. Soper, of Tyler county.

Chapman J. Stewart, of Doddridge county.

R. W. Lauck, of Wetzel county.

E. H. Caldwell and T. H. Trainer, of Marshall county.

James W. Paxton and Gordon Battelle, of Ohio county.

Joseph S. Pomeroy, of Hancock county.

George Sheets, of Hampshire county.

Abijah Dolly, of Hardy county.

Robert Hagar, of Boone county.

Mr. Van Winkle moved that the Rules of the June Convention be adopted, and that a Committee of five be appointed to make such revision as may be deemed necessary.

Mr. Van Winkle moved that a Committee of nine be appointed to report permanent Officers, and the question being put it was determined in the negative.

On motion of Mr. Sinsel a Committee on Credentials, consisting of the five following named members were appointed, viz:

Messrs. Sinsel, Brown of Preston, Stewart, Parker and Paxton.

Mr. Van Winkle moved that a Committee of nine be appointed to report the best method of bringing before the Convention such provisions to be inserted in the Constitution as may be proposed, pending which, on motion of Mr. Stewart, it was resolved that the Convention adjourn until 3 o'clock, P. M., at which time it would go into an election of permanent officers.

#### THREE O'CLOCK, P. M.

The Convention met pursuant to adjournment. Mr. Soper moved a reconsideration of the vote appointing a Committee of nine to present business to the Convention, and the question being put it was determined in the affirmative; whereupon on motion of Mr. Willey the resolution was laid on the table. The Committee on Credentials through their Chairman made the following report:

The Committee on Credentials beg leave to report that the following gentlemen are entitled to seats in the Convention as members thereof, from the following counties, viz:

Stephen M. Hansley, from the county of Raleigh.

R. W. Lauck, from the county of Wetzel.

Robert Irvine, from the county of Lewis.

Benjamin L. Stephenson, from the county of Clay.

Thomas W. Harrison and John M. Powell, from the county of Harrison.

Dudley S. Montague, from the county of Putnam.

Richard L. Brooks, from the county of Upshur.

A. J. Wilson, from the county of Ritchie.

G. F. Taylor, from the county of Braxton.

W. W. Brumfield, from the county of Wayne.  
 Josiah Simmons, from the county of Randolph.  
 Joseph Hubbs, from the county of Pleasants.  
 William W. Warder, from the county of Gilmer.  
 H. D. Chapman, from the county of Roane.  
 John Hall, from the county of Mason.  
 James Hervey, from the county of Brooke.  
 Robert Hagar, from the county of Boone.  
 W. T. Willey and Henry Dering, from the county of Monongalia.  
 P. G. Van Winkle and W. E. Stevenson, from the county of Wood.  
 E. B. Hall and Hiram Haymond, from the county of Marion.  
 J. W. Paxton, Daniel Lamb and G. Battelle, from the county of Ohio.

Joseph S. Pomeroy, from the county of Hancock.  
 Abraham D. Soper, from the county of Tyler.  
 James W. Parsons, from the county of Tucker.  
 Chapman J. Stewart, from the county of Doddridge.  
 Grenville Parker, from the county of Cabell.  
 Emmet J. O'Brien, from the county of Barbour.  
 Harmon Sinsel, from the county of Taylor.  
 John J. Brown and John A. Dille, from the county of Preston.  
 E. S. Mahon, from the county of Jackson.  
 Benjamin F. Stewart, from the county of Wirt.  
 T. R. Carskadon and Geo. Sheets, from the county of Hampshire.  
 E. H. Caldwell and T. H. Trainer, from the county of Marshall.  
 Abijah Dolly, from the county of Hardy.  
 J. H. Brown and Lewis Ruffner, from the county of Kanawha.

Your Committee would further report that Wm. Walker, from the county of Wyoming, and James S. Cassady, from the county of Fayette, claim seats in the Convention as delegates from said counties, but no returns complying with the Ordinance for a division of the State, have been produced before the Committee, but the credentials under which they claim their seats are herewith returned for the action of the Convention in the premises.

From the counties of Logan, Nicholas, Webster and Calhoun, no returns have been received.

HARMON SINSEL.

On motion the report was adopted. On motion of Mr. Willey the papers relative to the seats of Messrs. Walker and Cassady were laid on the table.

On motion of Mr. Stewart the election of permanent Officers was then gone into, whereupon he nominated for permanent President of the Convention, John Hall, of Mason county. Mr. Dering nom-

inated James H. Brown, of Kanawha county, but at the request of that gentleman subsequently withdrew his nomination, whereupon,

On motion of Mr. Lamb, John Hall, of Mason county, was declared unanimously elected President of the Convention, who was thereupon conducted to the chair by Messrs. Stewart and Dering when he acknowledged the honor conferred upon him by a few appropriate remarks.

The next business in order being the election of a Secretary, Mr. Sinsel nominated Ellery R. Hall, of Taylor county; Mr. Montague nominated Daniel D. Johnson, of Tyler county. There being no further nominations the vote was recorded as follows:

For Ellery R. Hall—Mr. President, (John Hall,) Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, Dering, Dille, Dolly, Hansley, Hall of Marion, Haymond, Harrison, Hervey, Irvine, Lauck, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Simmons, Sinsel, Stewart, Sheets, Trainer, Van Winkle, Willey, Warder, Wilson—32.

For Daniel D. Johnson—Messrs. Caldwell, Hubbs, Hagar, Lamb, Montague, Mahon, Stevenson of Wood, Soper, Stewart—9.

The next business in order being the election of a Sergeant-at-Arms, Mr. Pomeroy nominated James C. Orr, of Ohio county; Mr. Hall, of Marion, nominated William M. Dunnington, of Marion county.

There being no further nominations the vote was recorded as follows:

For James C. Orr—Mr. President, (John Hall,) Brown of Preston, Brooks, Brumfield, Battelle, Caldwell, Cassady, Dering, Dille, Dolly, Hubbs, Hervey, Hagar, Irvine, Lamb, Lauck, Montague, Mahon, O'Brien, Parsons, Parker, Paxton, Pomeroy, Simmons, Stewart of Wirt, Stevenson of Wood, Soper, Stuart of Doddridge, Sheets, Trainer, Van Winkle, Willey, Wilson—33.

For William M. Dunnington—Messrs. Brown of Kanawha, Chapman, Hansley, Hall of Marion, Haymond, Harrison, Powell, Sinsel, Warder—9.

Mr. Lamb moved that the Sergeant-at-Arms be authorized to appoint a door-keeper, an assistant door-keeper and three pages, and the question being on the amendment, the yeas and nays were demanded, which demand being sustained the vote was recorded as follows:

YEAS—Messrs. Brooks, Brumfield, Cassady, Dering, Dolly, Hall of Marion, Hubbs, Irvine, Montague, O'Brien, Parsons, Simmons, Stewart of Wirt, Soper, Stuart of Doddridge, Willey, Wilson—17.

NAYS—Messrs. Brown of Preston, Battelle, Caldwell, Dille, Hansley, Haymond, Harrison, Hervey, Hagar, Lamb, Lauck, Mahon, Powell, Parker, Paxton, Pomeroy, Stevenson of Wood, Sheets, Trainer, Van Winkle, Warder—21.

The question then recurring on the original motion, it was adopted.

Mr. Van Winkle called up the resolution heretofore offered by him, appointing a Committee of nine to report the best method of bringing before the Convention such provisions to be inserted in the Constitution as may be proposed. And the question being on the adoption of the same it was determined in the affirmative,

whereupon the President appointed the following gentlemen on that Committee : Messrs. Van Winkle, Brown of Kanawha, Hall of Marion, Irvine, Sheets, Parker, Chapman, Caldwell, Hagar.

On motion of Mr. Lamb, the secretary called the roll by counties and administered to the several members the oath embraced in the Ordinance for the reorganization of the State Government.

On motion of Mr. Willey, it was resolved that the clergy of the city and the Convention be requested to daily open the session of the Convention with prayer, in the alphabetical order of their names.

On motion of Mr. Sinsel, the report of the Committee on Credentials in reference to James Cassady, of Fayette county, and William Walker, of Wyoming county, was taken up, when Mr. Van Winkle moved the matter be referred back to the Committee on Credentials, and in the meantime these gentlemen be allowed seats in the Convention, which motion was subsequently withdrawn by him.

On motion of Mr. Stuart, of Doddridge, Mr. Cassady was admitted as a member from Fayette county, and upon a similar motion made by Mr. Stevenson of Wood, Mr. Walker was also admitted as a member from Wyoming county.

On motion the Convention adjourned until 11 o'clock, A. M., tomorrow, and to meet at the same hour each day thereafter until otherwise ordered.

### WEDNESDAY, NOVEMBER 27, 1861.

The Convention met pursuant to adjournment and was called to order by the President.

The session of the Convention was opened with prayer by the Rev. James E. Hervey, of the Presbyterian Church.

The minutes of the preceding day were read and approved. The Secretary elect appeared and took the oath of fidelity.

On motion of Mr. Lamb, it was ordered, that one hundred copies of the Rules adopted by the Convention which assembled in Wheeling in June last, be printed for the use of this body, and also a suitable number of Yeas and Nays.

The Committee appointed to report the best method of bringing before the Convention such provisions to be inserted in the Constitution as may be proposed through their Chairman made the following report :

*Resolved*, That the President appoint the following Standing Committees, each of which shall choose its own Chairman.

1. A Committee on Fundamental and General Provisions, to consist of nine members, who shall consider and report suitable pro-

visions to be inserted in the Constitution to give the government it creates a free and republican character; to protect minorities, and to secure popular rights, including provisions relating to suffrage and the basis of representation.

2. A Committee on County Organization, to consist of seven members, who shall consider and report suitable provisions for the administration of the local affairs of the several counties, the proper officers for each, their terms of service, and the mode and time of their election and appointment.

3. A Committee on the Legislative Department to consist of seven members, who shall consider and report the proper numbers of representatives in each branch of the General Assembly, the principle on which representation shall be apportioned, and a present apportionment thereof, and such other provisions as are necessary to constitute the said department; and also a proper mode of apportioning representation, in the House of Representatives of the United States, and an apportionment of the same under the census of 1860.

4. A Committee on the Executive Department, to consist of seven members, who shall consider and report such provisions as are necessary to constitute the said department.

5. A Committee on the Judiciary Department, to consist of seven members, who shall consider and report such provisions as are necessary to constitute the said department, including those relating to the Judiciary powers and Jurisdiction of Justices of Peace.

6. A Committee on Taxation and Finance, to consist of seven members, who shall consider and report suitable provisions on those subjects, and in relation to the assumption by the proposed new State, of an equitable proportion of the debt of the State of Virginia, and what provisions can and should be made for the payment of such proportion.

7. A Committee on Education, to consist of seven members, who shall consider and report suitable provisions in relation to that subject.

8. A Committee to consist of seven members, to prepare a schedule to accompany the Constitution, providing for putting the same in operation, and containing such other suitable provision as circumstances may require.

*Resolved*, That all resolutions and propositions, containing, or relating to, provisions to be inserted in the Constitution, shall be referred to the appropriate Standing Committees without debate, and be printed for the use of the Convention.

*Resolved*, That every report made by a Standing Committee, shall, in its turn, be considered, and be open to amendment, section by section, but the vote on the passage of any section or clause shall not be final. The question shall recur on the passage or adoption of the whole report as amended, and motions to strike out and to insert shall be in order.

By order of the Committee,

P. G. VAN WINKLE, Chairman.

On motion of Mr. Van Winkle, said report was taken up and adopted, section by section. Upon the calling of the ninth section, Mr. Paxton moved to strike out the words "without debate," but afterwards withdrew the amendment, and the section was adopted.

On motion of Mr. Stevenson, of Wood, the following resolution was adopted :

*Resolved*, That a Committee on Printing and Expenditures, to consist of three members, be appointed, who shall arrange for all printing directed by the Convention, at rates not greater than those authorized by the General Assembly at their late session, and shall audit all claims and bills against the Convention and certify the same for payment.

On motion of Mr. Van Winkle, it was resolved that when this Convention adjourn to-day, it will adjourn to meet on next Friday morning at 11 o'clock.

On motion of Mr. Van Winkle, the Convention took a recess until 4½ o'clock this evening, for the purpose of enabling the President to appoint certain committees.

4½ O'CLOCK, P. M.

The Convention met pursuant to adjournment.

In accordance with the resolution heretofore adopted, the President reported the following Committees :

No. 1. *Committee on Fundamental and General Provisions* :—Peter G. Van Winkle, Gordon Battelle, James H. Brown, Waitman T. Willey, Chapman J. Stuart, Robert Irvine, W. W. Brumfield, Abijah Dolly, James S. Cassady.

No. 2. *Committee on County Organization* :—Joseph S. Pomeroy, John A. Dille, A. D. Soper, Thos. W. Harrison, E. S. Mahon, Dudley S. Montague, Peter G. Van Winkle.

No. 3. *Committee on the Legislative Department* :—Daniel Lamb, Harmon Sinsel, James H. Brown, H. D. Chapman, Chapman J. Stuart, J. J. Brown, Josiah Simmons.

No. 4. *Committee on the Executive Department*:—E. H. Caldwell, H. Dering, Wm. E. Stevenson, Lewis Ruffner, G. F. Taylor, S. N. Mansley, E. J. O'Brien.

No. 5. *Committee on the Judiciary Department*:—Waitman T. Willey, James H. Brown, Ephraim B. Hall, Robert Irvine, C. J. Stuart, John A. Dille, B. F. Stewart.

No. 6. *Committee on Finance and Taxation*:—James W. Paxton, J. J. Brown, R. L. Brooks, H. Dering, H. Haymond, James Hervey, John M. Powell.

No. 7. *Committee on Education*:—Gordon Battelle, William E. Stevenson, Robert Hagar, Thomas H. Trainer, J. W. Parsons, William Walker, George Sheets.

No. 8. *Committee on Schedule to the Constitution*:—Ephraim B. Hall, R. W. Lauck, Grenville Parker, W. W. Warder, A. J. Wilson, T. W. Harrison, Joseph Hubbs.

*Committee on Printing and Expenditures*:—William E. Stevenson, James W. Paxton, A. D. Soper.

Mr. Sinsel submitted a paper relative to the Judicial Department, and requested that it be referred to the appropriate committee, which was done, and it was ordered to be printed.

On motion of Mr. Van Winkle, the following resolution was adopted:

*Resolved*, That the Committee on Printing, &c., enquire and report as to the propriety of employing a proper person or persons to report, officially, the debates of the Convention, and the probable expense thereof, and of printing the same in book form.

On motion of Mr. Brown of Preston, the following resolution was referred to the appropriate Committee:

*Resolved*, That every white male citizen of this commonwealth, who shall have attained the age of 21 years, and who shall have resided therein one year, and who shall have resided in the county in which he offers to vote, ten days previous to his offering to vote, and who shall have previously paid the State or County tax with which he was assessed the previous year, shall be entitled to the right of suffrage in this commonwealth.

On motion of Mr. Stevenson of Wood, the Convention adjourned.

FRIDAY, NOVEMBER 29, 1861.

The Convention met pursuant to adjournment, and was called to order by the President.

The session was opened with prayer by Rev. S. R. Brockunier, of the M. E. Church.

The minutes were read and approved.

Mr. Paxton offered the following resolution which was referred to the appropriate Committee.

*Resolved*, That voting by ballot is the mode best calculated to secure, at all popular elections, an independent and untrammelled expression of the people's will, so essential to the maintenance of free government.

Mr. Stevenson of Wood, submitted a paper relative to the right of suffrage and electors, which was referred to the appropriate committee.

Mr. Dering offered the following resolutions, which were appropriately referred:

*Resolved*, That the Legislature shall not pledge the faith of the State for the payment of any bonds or contracts or obligations for the benefit or use of any person or persons, corporation or body politic, whatever.

*Resolved*, That the Committee on Education inquire into the expediency of inserting a provision in the Constitution for the establishment of a general free school system throughout the Commonwealth.

*Resolved*, That no capitation tax shall be imposed upon, or collected from, any citizen of this State until they shall have attained the age of twenty-one years.

Mr. Battelle offered the following resolution, which was referred to the appropriate committee:

*Resolved*, That the Committee on Fundamental and General Provisions be requested to inquire into the expediency of requiring all elections by the people to be by ballot.

Mr. Powell offered the following resolution which was appropriately referred:

*Resolved*, That the Committee on the Executive Department be requested to enquire into the expediency of fixing the salary of the Governor at a sum not exceeding \$2,500 per annum.

Mr. Parker offered a paper relative to the Right of Suffrage, which was referred to the appropriate Committee.

Mr. Hervey offered a paper relative to the qualification of voters, which was referred to the appropriate Committee.

Mr. Wilson offered the following resolution and it was referred :

*Resolved*, That all appropriations made by the Legislature for Internal Improvements, shall be submitted to the legal voters of the State, and if sanctioned by them, shall then be returned to the said Legislature, and be sanctioned by them before it becomes a law.

Mr. Brown of Kanawha, offered the following, which was appropriately referred :

*Resolved*, That the Supreme Court of Appeals ought to consist of three eminent Jurists, to be elected by the Legislature and continued in office during good behavior.

Mr. Haymond submitted a paper relative to the issue of small Notes and also the subject of Foreign Notes and Bills of Exchange which was referred to the proper Committee.

Mr. Van Winkle moved that the Committee on Fundamental and General Provisions be allowed to print a partial report, which was agreed to.

Mr. Parker submitted a paper relative to the Judiciary Department, which was referred to the committee on that subject.

Mr. Willey submitted a paper relative to the Judiciary, which was appropriately referred.

On motion of Mr. Van Winkle, the Convention adjourned.

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## SATURDAY, NOVEMBER 30, 1861.

The Convention met pursuant to adjournment, and was called to order by the President.

The session of the Convention was opened with prayer by Rev. Gordon Battelle, of the M. E. Church.

The minutes of the preceding day were read and approved.

Mr. Van Winkle from the Committee on Fundamental and General Provisions, submitted the following partial report, and moved that it be laid on the table and printed, which was agreed to :

The Committee on Fundamental and General Provisions respectfully report in part and recommend that the following provisions be inserted in the Constitution of the proposed new State.

By order of the Committee,

P. G. VAN WINKLE, Chairman.

## ARTICLE I.

## FUNDAMENTAL AND GENERAL PROVISIONS.

SECTION 1. The State of Kanawha shall be and remain one of the United States of America. The Constitution of the United States, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land.

SEC. 2. Writs, Commissions and other publications issued under State authority, shall run in the name of, and official bonds shall be made payable to, the State of Kanawha. Laws shall be enacted in the name of the State of Kanawha. Writs shall conclude "against the peace and dignity of the State of Kanawha."

SEC. 3. The powers of Government reside in all the citizens of the State, and can be rightfully exercised only in accordance with their will and appointment.

SEC. 4. The citizens of the State are the citizens of the United States residing therein; but no person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein.

SEC. 5. Every citizen of the State shall be entitled to equal representation in the Government, and in all apportionments of representation, equality of numbers of those entitled thereto shall be preserved.

SEC. 6. The white male citizens of the State shall be entitled to vote at all elections held within the election districts in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason or felony, or who has been convicted of bribery in an election, or who has not been a resident of the State for one year, and of the county in which he offers to vote, for six months, next preceding such offer, shall be permitted to vote while such disability continues.

SEC. 7. In all State, County and Municipal elections the mode of voting shall be by *viva voce*.

SEC. 8. No voter during the continuance of an election at which he is entitled to vote, or during the time necessary and convenient for going to and returning from the same, shall be subject to arrest upon civil process; or be liable to attend any court or judicial proceeding as suitor, juror or witness; or to work upon the public roads; or, except in time of war or public danger, to render military service.

SEC. 9. All citizens entitled to vote, and no other persons, may be elected or appointed to any State, County or Municipal office, but the Governor, Lieutenant Governor, Attorney General, Judges

and Senators must at the beginning of their terms of service, have respectively attained the age of twenty-five years and have been a citizen of the State for five years next preceding, or at the time of the adoption of this Constitution.

SEC. 10. Every person elected or appointed to any office or trust, civil or military, shall before proceeding to exercise the authority or discharge the duties of the same, make oath or affirmation that he will support the Constitution of the United States and the Constitution of this State; and every citizen of this State may in time of war, insurrection or danger, be required by law to make the like oath of affirmation, upon pain of suspension of his right of voting and holding office under this Constitution.

SEC. 11. In criminal prosecutions, and in suits at common law, where the value in controversy shall exceed twenty dollars, trial by jury shall be preserved. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishment inflicted. Warrants to search suspected places shall not be issued except upon probable cause supported by oath or affirmation. No citizen shall be arrested or otherwise deprived of his liberty without due process of law and the privilege of the writ of HABEAS CORPUS shall not be suspended, except when in time of invasion, insurrection or public danger the public safety may require it. No bill of attainder, or *ex post facto* law, or any law impairing the obligation of contracts or abridging freedom of speech or of the press, shall be passed or executed. No religious test shall be required as a qualification to any office or public trust. Private property shall not be taken for public use without just compensation.

SEC. 12. The Legislative, Executive and Judicial Departments of the Government shall be separate and distinct. Neither shall exercise the powers properly belonging to either of the others. No person shall be invested with, or exercise the powers of more than one of them at the same time.

SEC. 13. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. Every attempt to justify and uphold an armed invasion of the State, or an organized insurrection within the limits thereof, by publicly speaking, writing or printing, or the publishing or circulating of any such writing or printing during the continuance of such invasion or insurrection, shall be deemed an adhering to the enemies of the State. Treason shall be punished, according to the character of the acts committed, by the infliction of one or more of the penalties, of death, imprisonment, fine, or confiscation of real and personal property of the offenders, as may be prescribed by law.

SEC. 14. No lottery shall be authorized by law; and the buying, selling or transferring of tickets or chances in any lottery shall be prohibited.

Mr. Sinsel submitted a paper relative to the county organization, which was referred to that committee, and also a paper relative to the mode of voting, which was referred to the Committee on Fundamental and General Provisions.

Mr. Lamb, on the Committee on the Legislative Department, submitted the following report, and moved that it be printed, which was agreed to:

The Committee on the Legislative Department have been instructed by the Convention to report "a proper mode of apportioning representation in the House of Representatives of the United States."

The Constitution of the United States provides (Art. 1, Sec. 2, Clause 3.) that "representation and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

As the representation is apportioned to the State according to these rules, it is proper that it should be apportioned according to the same rules among the several Congressional districts.

The existing Constitution of Virginia has, therefore, provided, (Art. 4, Sections 13 and 14) as follows:

SECTION 13. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States, shall be apportioned as nearly as may be among the several counties, cities and towns of the State, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

SEC. 14. In the apportionment, the State shall be divided into districts corresponding in number with the representatives to which it may be entitled in the House of Representatives of the Congress of the United States, which shall be formed respectively of contiguous counties, cities and towns be compact, and including as nearly as may be, an equal number of the population, upon which is based representation in the House of Representatives of the United States."

The Committee recommend that these provisions be inserted in the Constitution for the State of Kanawha.

The Committee on the Legislative Department have also been required to report an apportionment of representation in the House of Representatives of the United States, under the census of 1860. There is difficulty attending this branch of our duty.

1. It is impossible to arrange the Congressional districts until the boundaries of the State are determined. The representative number of the whole State of Virginia is 1,399,670. According to the apportionment made under the census of 1860, by the Secretary of the Interior, she is entitled to eleven Representatives in the House of Representatives of the United States. This is one Representative for every 127,242 of her representative number. The representative number for the thirty-nine counties included in the proposed new State, by the first Section of the Ordinance of August 20, 1861, is 277,933, entitling those counties to two Representatives, and leaving an unrepresented fraction of 23,449, or less than one-fifth of the number which would entitle those counties to an additional Representative. If to these thirty-nine we add Hampshire and Hardy, we obtain a representative number of 300,796, but still the forty-one counties would be entitled to but two Representatives, leaving unrepresented a fraction of 46,312, or about one-third of the number which would entitle them to an additional Representative.

The number of Representatives will, therefore, in either case be two; but the Congressional Districts into which the proposed new State should be divided, will be very differently arranged if the new State be confined to thirty-nine counties from what they would if it include the forty-one.

The Ordinance of August 20th, 1861, under which this Convention has assembled, proposes to form a new State out of the territory described in the 1st Section, which includes only the thirty-nine Counties referred to. But the Third Section of the Ordinance provides that—

“3. The Convention herein provided for may change the boundaries described in the First Section of this Ordinance, so as to include within the proposed State the counties of Greenbrier and Pocahontas, or either of them, and also the counties of Hampshire, Hardy, Morgan, Berkley and Jefferson, or either of them, and also such other counties as lie contiguous to the said boundaries or to the counties named in this Section, if the said counties, to be added, or either of them, by a majority of the votes given, shall declare their wish to form part of the proposed State, and shall elect Delegates to the said Convention, at elections to be held at the time and in the manner herein provided for.”

It will be observed that the expression here used is that the Convention may change the boundaries described in the First Section, so as to include the counties of Hampshire, Hardy, &c., in the proposed State; but this is only to be done, if the county to be added, by a majority of the votes given, shall declare its wish to form a part of the proposed State, and shall elect Delegates to the said Convention, at elections to be held at the time and in the manner provided for in the Ordinance.

The counties of Hampshire and Hardy have elected Delegates to this Convention. Have they declared their wish to form a part of the proposed State, according to the intents and spirit of the Ordinance? This is a fact to be ascertained and declared by this Convention. If they have done so, then the Convention *may* change the boundaries so as to include them.

From the returns made to the Secretary of the Commonwealth, it appears that polls were opened on the 4th Thursday of October last, on the question of the formation of a New State as proposed by the Ordinance of August 20th, 1861, at two election precincts in Hampshire and two election precincts in Hardy;—the result being as follows:

|                                                     |     |
|-----------------------------------------------------|-----|
| Hampshire county, Piedmont, for the New State,      | 16  |
| “ “ “ against the New State,                        | 1   |
| New Creek, for the New State,                       | 179 |
| “ “ against the New State,                          | 17  |
| Hardy county, Mrs. Kitsmiller's, for the New State, | 25  |
| “ “ against the New State,                          | 0   |
| Greenland, for the New State,                       | 125 |
| “ against the New State,                            | 0   |

At the Presidential election held in November, 1860, Hampshire county gave an aggregate vote of 2,008; and Hardy of 1,323. The whole vote of the two counties on the question of the formation of the new State being 363, is about one-ninth of the number of votes (3,331) which they gave at the Presidential election.

Shall this vote be considered such an indication of the wish of said counties to form part of the proposed State, as the Ordinance of August 20, 1861, contemplated?

Though we report the facts as they appear to us, the Committee would be distinctly understood as not undertaking to indicate what the decision of the Convention should be upon this question. But its decision, one way or the other, by the Convention is a necessary preliminary, not only in reference to the arrangement of Congressional districts, but also to the apportionment of members of the

House of Delegates, and the arrangement of Senatorial and Judicial districts.

With a view then merely to bring the question distinctly before the Convention for its decision, we respectfully report the following resolution :

*Resolved*, That a Committee of nine be appointed to ascertain and report to the Convention a proper boundary for the proposed new State.

2. It is proper, however, for the Committee to add, that there are, in their opinion, other objections in the way of an apportionment by this Convention of the representation which may be allowed the new State in the House of Representatives of the United States.

When the proposed State shall be admitted into the Union, the number of Representatives to which she will be entitled will be declared in the act or resolution of Congress, providing for her admission. It would seem to be premature to establish Congressional districts, before the number of Representatives is declared by the proper authority. The term of the 38th Congress will commence on the 4th day of March, 1863. The territory included in the new State is now represented in Congress; and before the term of the present members of the House of Representatives expires, proper arrangements can be made by the Legislature of Kanawha to have the State represented in the 38th Congress.

The Constitution of the United States provides (Article 1st, Sec. 4, 1st. Clause,) that the time, places and manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

When the new State shall be admitted into the Union, its Legislature will undoubtedly have authority, subject to such regulations as Congress may have prescribed, to establish the Congressional Districts. In view of the clause just cited from the Constitution of the United States, it is doubtful at least, whether this authority must not be exercised by the Legislature, and not by the Convention.

The Committee recommend the passage of the following resolution:

*Resolved*, That the Committee on the Legislative Department be discharged from the further consideration of the subject of apportioning the representation in Congress under the Census of 1860.

By order of the Committee,

D. LAMB, Chairman.

Mr. Lamb moved the adoption of the first resolution in the report, appointing a Committee of nine to ascertain and report a proper boundary for the proposed new State, which was agreed to. Mr. Lamb also moved the adoption of the concluding resolution, discharging the Committee as to the apportionment for the Census of 1860.

Mr. Brown of Kanawha, objected to the adoption of the resolution. The question was put, and the motion prevailed.

The President stated that he would take time as to the appointment of the Committee ordered by the first resolution.

Mr. Hagar submitted a paper relative to the subject of African Slavery, which was referred to the Committee on Fundamental and General Provisions.

Mr. Brown of Kanawha, submitted a paper relative to State Bonds, which was referred to the appropriate committee.

Mr. Dille submitted a paper relative to the Judiciary Department, which was referred to the committee on that subject.

Mr. Stevenson of Wood, submitted a paper relative to the Legislative Department, which was referred to the appropriate committee.

Mr. Harrison offered the following resolution, which was referred:

*Resolved*, That a Declaration of Rights shall be prefixed to, and made part of, the Constitution to be framed by this Convention; that said Bill of Rights be the same as that prefixed to the Constitution of this State, omitting the 14th Declaration.

Mr. O'Brien submitted a proposition in relation to the qualification of voters, which was referred to the appropriate committee.

Mr. Powell submitted a paper on the subject of Taxation and Finance, which was referred to the proper committee.

Mr. Hervey submitted a resolution as follows, which was referred:

*Resolved*, That 'Kanawha' in the eighth line for an "Ordinance to provide for the formation of a new State out of a portion of the territory" of the State of Virginia, passed August 20th, 1861, be stricken out, and New Virginia inserted in its place.

Mr. Stevenson of Wood, moved that the Sergeant-at-Arms procure a desk for each of the members, at a cost not exceeding two dollars and fifty cents each, which was objected to by Messrs. Lamb, Willey and Van Winkle. Mr. Lamb moved to amend by inserting twelve desks instead of one for each member. Mr. Stuart of Doddridge, moved to amend the amendment by requiring the Sergeant-at-Arms to procure two large tables for the accommodation of members desiring to write; and Mr. Stuart's amendment was adopted.

Mr. Brown of Kanawha, introduced a paper relative to the Slavery Question, which was referred to the Committee on Fundamental and General Provisions.

Mr. Caldwell submitted the following resolution which was adopted:

*Resolved*, That the Secretary of the Commonwealth be requested to furnish the Convention at an early day, with the vote of the several Counties for and against the new State, showing also the aggregate vote for and against said State.

On motion of Mr. Hervey, the following resolution was adopted:

*Resolved*, That the Auditor of the State be requested to furnish the Convention with the aggregate amount of the State debt on the 1st day of June, 1861.

On motion of Mr. Paxton, the Convention adjourned,

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### MONDAY, DECEMBER 2, 1861.

The Convention met pursuant to adjournment, and was called to order by the President.

The session of the Convention was opened with prayer by Rev. R. L. Brooks, member of the Convention.

The minutes were read and approved.

In accordance with a resolution adopted yesterday, the President announced the following Committee to ascertain and report to the Convention a proper boundary for the proposed new State:

Messrs. C. J. Stuart, Sheets, Dolly, Walker, Simmons, J. H. Brown, Willey, Lamb, Van Winkle.

Mr. Brown of Kanawha, submitted a paper on the subject of private property taken for public use, which was referred to the Committee on Fundamental and General Provisions.

The Committee on Printing and Expenditures, through their chairman, Mr. Stevenson of Wood, made the following report, which on motion of the chairman, was laid on the table, ordered to be printed, and made the order of the day for to-morrow morning

The Committee on Printing and Expenditures having been instructed by the Convention to "inquire and report as to the propriety of employing a proper person or persons to report, officially, the debates of the Convention, and the probable expense thereof, and of printing the same in book form," would respectfully report that in their opinion it is desirable, that a competent person or persons should be employed to report the debates of the Convention, and also to have the same published in book form,

provided the same can be done without unreasonable cost. In order that the Convention may be enabled to judge of the expense of the reporting and publishing, the committee herewith present two proposals: One from Messrs. Campbell & M'Dermot, for reporting and publishing the Debates and Proceedings, and one from Messrs. Trowbridge & Downey for publishing the same. All of which is respectfully submitted.

W. E. STEVENSON, Chairman.

INTELLIGENCER OFFICE, Dec. 2, 1861.

W. E. STEVENSON,

*Chairman of Com. on Printing and Expenditures:*

SIR:—Below we annex propositions for publishing the Debates and Proceedings of the Constitutional Convention:

*For One Thousand Copies of Five Hundred Pages.*—For reporting, transcribing, proof-reading, &c., including a complete index, at 60 cts. per thousand ems, - - - \$791,40

For composition at 38 cts. per thousand ems, - - - 501,22

" Press work at 40 cts. per token, - - - 49,60

" Paper, 36 reams and 3 quires, - - - 181,00

" Binding, and pressing sheets, - - - 400,00

\$1923,22

For 500 copies—500 pages, - - - \$1,800,00

" 1000 " 250 " - - - 1,156,00

" 500 " 250 " - - - 971,62

One-third to be paid on adjournment of the Convention, and the remainder on delivering the work.

CAMPBELL & M'DERMOT.

To W. E. STEVENSON, ESQ., *Chairman of Com. on Printing.*

We, the undersigned, proprietors of the "Daily Press," hereby agree to do all the printing and binding for the Convention on the Division of the State, on the same terms that we do the State Printing, except the matter which comes under the head of *plain printing*, or *plain composition*, which we agree to do for *five per cent.* less than our charge for printing for the State. All of which is respectfully submitted.

TROWBRIDGE & DOWNEY.

Probable cost for one hundred copies of 200 pages each,—

Composition, - - - - - \$114.00

Paper, - - - - - 7.00

Press Work, - - - - - 10.00

Folding, Stitching and Binding, - - - 25.00

\$156.00

|                                           |          |
|-------------------------------------------|----------|
| For 500 copies,                           |          |
| Composition, - - - - -                    | \$114.00 |
| Paper, - - - - -                          | 28.00    |
| Press Work, - - - - -                     | 40.00    |
| Folding, Stitching and Binding. - - - - - | 125.00   |
|                                           | <hr/>    |
|                                           | \$307.00 |

Composition for each additional 100 pages, will cost  
about - - - - - \$57.00

Additional binding for same - - - - - 10.00

This is as near as we can estimate, as some of the matter will be in different type. Hence it is impossible to make it exact.

TROWBRIDGE & DOWNEY.

Mr. Parker offered a paper on the subject of Education and Free Schools, which was referred to the Committee on Education.

Mr. Haymond offered a resolution requesting the Secretary of this Convention to write to the authorities of Ohio and Pennsylvania for copies of their free school laws, and moved its adoption, whereupon several of the members objected, on the ground that the laws referred to could be procured in the city, and the resolution was lost.

Mr. Stevenson of Wood, submitted a paper relating to Education and Free Schools, which was referred to the proper Committee.

Mr. Powell submitted a paper in relation to Intoxicating Liquors, which was appropriately referred.

Mr. Harrison submitted the following resolution, which was referred to the Committee on Fundamental and General Provisions:

*Resolved*, That the duties of every office shall be discharged by the holder thereof in person.

\* Mr. Parsons submitted two resolutions on the subject of providing for a fund for Educational purposes, which was referred to the appropriate committee.

Mr. Brown, of Preston, submitted a paper on the subject of Taxation, which was referred to the proper committee.

Mr. Sinsel submitted a proposition relative to Free Schools and Education, which was appropriately referred.

On motion of Mr. Van Winkle, the Convention adjourned.

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TUESDAY, DECEMBER 3, 1861.

The Convention met pursuant to adjournment.

The session of the Convention was opened with prayer by Rev. J. L. Clark, of the M. E. Church.

The minutes of the preceding day were read and approved.

The Chairman of the Committee on Boundary made the following report, which, on motion of said Chairman, was laid on the table, ordered to be printed, and made the order of the day for to-morrow at 11 o'clock :

The Committee appointed to "ascertain and report to the Convention a proper boundary for the new State," respectfully submitted the subjoined resolutions. They append to this report tables A, B, C and D, showing the white, free colored, slave and total population, and the federal numbers of the counties comprised in each of the districts mentioned in the resolutions.

By order of the Committee,

C. J. STUART, Chairman.

#### RESOLUTIONS.

*Resolved*, That in addition to the thirty-nine counties, mentioned at the close of the first Section of the Ordinance convening this Convention, the counties of Pocahontas, Greenbrier, Monroe, Mercer, McDowell, Buchanan and Wise, be included within the boundaries of the proposed new State.

*Resolved*, That the district comprising the counties of Craig, Giles, Bland, Tazewell, Russell, Lee and Scott, shall be included in and constitute part of the proposed new State, provided a majority of the votes cast within the said district, at elections to be held for the purpose, on the third Thursday in April, in the year 1862, and a majority of the said counties are in favor, of the adoption of the Constitution to be submitted by this Convention.

*Resolved*, That the district comprising the counties of Jefferson, Berkley, Morgan, Hampshire, Hardy, Pendleton, Highland, Bath and Allegheny shall also be included in, and constitute part of, the proposed new State, provided a majority of the votes cast within the said district, at elections to be held for the purpose, on the third Thursday in April, in the year 1862, and a majority of the said counties are in favor of the adoption of the Constitution to be submitted by this Convention.

*Resolved*, That the district comprising the counties of Clark, Warren, Shenandoah, Page, Rockingham, Augusta, Rockbridge and Botetourt shall also be included in, and constitute part of, the proposed new State, provided a majority of the votes cast within the said district, at elections to be held for the purpose, on the third Thursday in April, in the year 1862, and a majority of the said counties are in favor of the adoption of the Constitution to be submitted by this Convention.

*Resolved*, That this Convention respectfully request the General Assembly to make suitable provisions for holding the elections mentioned in the preceding resolutions.

Mr. Soper submitted a paper on the subject of County Organization, which was referred to the committee on that subject.

Mr. Carskadon submitted a proposition in relation to the boundaries of the proposed new State, which was referred to the appropriate committee.

Mr. Haymond submitted a paper relative to the subject of Free Schools, which was referred to the Committee on Education.

Mr. Trainer submitted a proposition on the subject of prohibiting the sale of Spirituous Liquors, which was referred to the Committee on the Legislative Department.

Mr. Montague submitted a paper in relation to the name of the proposed new State which was referred to the appropriate committee.

The order of the day being called for, which was the consideration of reporting and publishing the Debates of this Convention, the report of the committee on that subject was taken from the table, and on motion of Mr. Van Winkle, the following resolution was adopted :

*Resolved*, That the Committee on Printing and Expenditure be authorized to contract for the reporting and printing in book form, the Debates of this Convention.

Mr. Van Winkle moved that the report of the Committee on Fundamental and General Provisions be taken up and considered, which was agreed to.

The First Section was read, when Mr. Sinsel moved to amend the same, by striking out the word "Kanawha" in the first line, upon which a long debate ensued, pending which, on motion of Mr. Pomeroy, the Convention took a recess until 3 o'clock this afternoon.

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3 O'CLOCK, P.M.

The Convention met pursuant to adjournment.

The question being upon the amendment of Mr. Sinsel, for striking out the word "Kanawha," the yeas and nays were demanded, which demand being sustained, the amendment was adopted, yeas 30, nays 14.

On motion of Mr. Caldwell, the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brumfield, Caldwell, Carskadon, Cassady, Dille, Dolly, Hansley, Haymond, Hubbs, Hervey, Hagar, Lauck, Mahon, O'Brien, Parsons, Powell, Parker, Pomeroy, Sinsel, Simmons, Chapman J. Stuart, B. F. Stewart, Sheets, Soper, Taylor, Trainer, Willey, Walker, Wilson—30.

NAYS—Messrs. John Hall, (President,) Brown of Kanawha, Brooks, Battelle, Chapman, Harrison, Irvine, Lamb, Montague, Paxton, Ruffner, Stevenson of Wood, Van Winkle, Warder—14.

So the word "Kanawha" was stricken out.

On motion of Mr. Lamb, the Convention proceeded to fill the blank. The list of Delegates was called, and the vote recorded as follows:

FOR "WEST VIRGINIA"—Messrs. John Hall, (President,) Brumfield, Caldwell, Carskadon, Cassady, Dille, Dolly, Hansley, Haymond, Hubbs, Hervey, Hagar, Irvine, Lanck, Mahon, O'Brien, Parsons, Parker, Sinzel, Simmons, B. F. Stewart, C. J. Stuart, Sheets, Soper, Taylor, Trainer, Willey, Walker, Warder, Wilson—30.

FOR "KANAWHA"—Messrs. Brown of Kanawha, Battelle, Chapman, Harrison, Lamb, Montague, Paxton, Ruffner, Van Winkle—9.

FOR "WESTERN VIRGINIA"—Messrs. Brooks and Powell—2.

FOR "ALLEGHANY"—Messrs. Pomeroy and Stevenson of Wood—2.

FOR "AUGUSTA"—Mr. Brown of Preston—1.

So it was decided to fill the blank by inserting "West Virginia," and also to insert "West Virginia" wherever "Kanawha" appears in the Sections.

On motion of Mr. Van Winkle, the first section, as amended, was adopted.

The Convention then proceeded to the consideration of the second Section, and on motion of Mr. Van Winkle, the word "writs" in the fourth line was stricken out, and the word "indictments" inserted in its stead, whereupon,

Mr. Lamb moved to further amend the second Section, by inserting after the word "writs," in the first line, "and" and strike out "and other publications" after the words "commissions," in the same line; which motion was decided in the affirmative; whereupon, on motion of Mr. Lamb, the Section, as amended, was adopted.

On motion of Mr. Willey, the third Section was adopted.

On motion of Mr. Brown of Kanawha, the fourth Section was adopted.

Mr. Pomeroy moved the adoption of the fifth Section, whereupon, Mr. Brown of Kanawha, moved to amend it, by inserting, after the words "shall be," in the third line, the words, "as near as possible." And the question being upon the amendment, it was decided in the affirmative; and thereupon, on motion of Mr. Van Winkle, the Section, as amended, was adopted.

The Convention having under consideration, the sixth Section, Mr. Stevenson moved to amend it, by striking out the words "six months," in the seventh line, and insert, in its stead, "thirty days," and the question being upon the amendment, it was agreed to. Mr. Van Winkle moved the adoption of the Section, pending which, on motion of Mr. O'Brien, the Convention adjourned.

WEDNESDAY, DECEMBER 4, 1861.

The Convention assembled pursuant to adjournment, and was called to order by the President.

The session was opened with prayer by the Rev. Gideon Martin of the M. E. Church, and the minutes of the preceding day were read and approved.

On motion of Mr. Stevenson of Wood, the following resolution was adopted :

*Resolved*, That hereafter the Convention will take a recess from half-past twelve o'clock until half-past three o'clock, P. M.

Mr. Soper, Mr. Brown of Preston, Mr. O'Brien and Mr. Dille submitted propositions which were properly referred.

On motion of Mr. Lamb, the order of the day was passed by until the afternoon session.

On motion of Mr. Van Winkle, the report of the Committee on Fundamental and General Provisions was taken up for further consideration, and the question being upon the adoption of the sixth Section, as amended on yesterday,

Mr. Dille offered to amend the same by striking out all after the word "offer," in the seventh line, and inserting the following: "or who has not within two years paid a State or County tax, which shall have been assessed at least thirty days before the election, shall enjoy the right of an elector, provided, that white freemen, citizens of the State, between the ages of 21 and 22, and having resided in the State one year and in the county 30 days, shall be entitled to vote, although they shall not have paid taxes.

Mr. Van Winkle moved to amend the amendment, by inserting after the words "before the election" the words, "and shall have worked one day on the roads," but he afterwards withdrew the amendment to the amendment, and the question recurring upon the amendment of Mr. Dille, the yeas and nays were demanded, and the demand being sustained, the amendment was rejected, yeas 18, nays 28.

On motion of Mr. Brumfield, the vote was recorded as follows:

YEAS—Messrs. John Hall, (President,) Brown of Preston, Caldwell, Carskadon, Dering, Dille, Dolly, E. B. Hall, Harrison, Irvine, Montague, Parsons, Parker, Paxton, Pomeroy, Ruffner, Simmons, Walker—18.

NAYS—Messrs. Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, Cassady, Hansley, Haymond, Hubbs, Hervey, Hagar, Lamb, Lauck, Mahon, O'Brien, Powell, Sinsel, Stevenson of Wood, B. F. Stewart, Sheets, Soper, C. J. Stuart, Taylor, Trainer, Van Winkle, Willey, Warder, Wilson—28.

Mr. Van Winkle moved the adoption of the Section as amended, but the hour of twelve and a half o'clock having arrived, the Convention took a recess until half-past three o'clock this afternoon.

3½ O'CLOCK, P. M.

The Convention assembled at 3½ o'clock.

The President laid before the Convention, the report of the Auditor of Public Accounts, furnished by order of a resolution heretofore adopted by the Convention, showing the amount of the State debt, on the first day of June, 1861, which, on motion of Mr. Willey was laid on the table and ordered to be printed.

The President also laid before the Convention a communication from the Commissioners, Trustees and Principal of the 5th Ward Public School of the city of Wheeling, extending an invitation to the members of the Convention to visit said school either as a body or by committee, and on motion of Mr. Willey, it was laid on the table, and the Secretary of this Convention was directed to reply to said communication, accepting the invitation therein extended.

Mr. Stuart of Doddridge, moved to take up the report of the Committee on Boundary, but afterwards withdrew the motion, at the suggestion of a member, and moved that it be made the order of the day for to-morrow at 12 o'clock, which was agreed to.

The President stated that the business in order was the further consideration of the report of the Committee on Fundamental and General Provisions, and that Mr. Hall of Marion was entitled to the floor.

Mr. Hall of Marion, moved to amend the 6th Section by striking out the words "treason or" in the fourth line, before the word "felony," and insert the same words before the word "bribery" in the fifth line; but afterwards modified his amendment as follows: Strike out "treason or," before the word "felony" in the fourth line, and insert before the word "bribery" in the fifth line, the words "treason, unless it be shown that such conviction is erroneous." And the question being on the amendment of Mr. Hall of Marion, the yeas and nays were demanded, which demand being sustained, the amendment was rejected—yeas 13, nays 33.

And on motion of Mr. Parker the vote was recorded as follows:

YEAS—Messrs. Caldwell, Hansley, E. B. Hall, Harrison, Hervey, Montague, Powell, Parker, Pomeroy, Ruffner, Simmons, Taylor, Walker—13.

NAYS—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, Carska-ton, Cassady, Dering, Dille, Dolly, Haymond, Hubbs, Hagar, Irvine, Lamb, Lauck, Mahon, O'Brien, Parsons, Paxton, Sinsel, Stevenson of Wood, B. F. Stewart, C. J. Stewart, Sheets, Soper, Trainer, Van Winkle, Willey, Warder, Wilson—23.

Mr. Brown of Kanawha, moved to amend the 6th Section by striking out the word "or" before the word felony in the fourth line, and also the word "who" at the end of the fourth line, and "has been convicted of" in the fifth line. And the question being upon the amendment of Mr. Brown of Kanawha, the yeas and nays were

demande, and the demand being sustained, the amendment was rejected—yeas 6, nays 40.

And on motion of Mr. Hall of Marion, the vote was recorded as follows :

YEAS—Messrs. Brown of Kanawha, Dolly, Montague, Simmons, Soper, C. J. Stuart—6.

NAYS—Messrs. John Hall (President), Brown of Preston, Brooks, Brumfield, Battelle, Chapman, Caldwell, Carskadon, Cassady, Dering, Dille, Hansley, E. B. Hall, Haymond, Harrison, Hubbs, Hervey, Hagar, Irvine, Lamb, Lauck, Mahon, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Ruffner, Blasel, Stevenson of Wood, B. F. Stewart, Sheets, Taylor, Trainer, Van Winkle, Willey, Walker, Warder, Wilson—40.

Mr. Stevenson of Wood, moved to amend the 6th Section, by inserting at the end of the same, the words "but a citizen, who has previously been a qualified voter of the State, and removed therefrom, and returned, and who shall have resided in the county, and be free from the disabilities, as aforesaid, shall be entitled to vote, after residing in the State six months." And the question being on the adoption of said amendment, it was put and decided in the negative.

Mr. O'Brien moved to amend the said Section by inserting after the words "pauper" in the fourth line, the words "or who is under the influence of ardent spirits when he offers to vote." The question was put and decided in the negative.

On motion of Mr. Stevenson of Wood, the 6th Section was adopted, as amended on yesterday.

Mr. Simmons moved to adjourn which was agreed to.

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#### THURSDAY, DECEMBER 5, 1861.

The Convention assembled pursuant to adjournment, and was called to order by the President.

The session was opened with prayer by Rev. Dr. James J. Brownson, of the Presbyterian Church, Washington, Pa.

The minutes of yesterday were read, corrected and approved.

The Chairman of the Committee on the Executive Department presented, on behalf of the majority of the committee, the following report, which on his motion was laid on the table, and ordered to be printed.

#### EXECUTIVE DEPARTMENT.

1. The chief Executive power of this Commonwealth shall be vested in a Governor, who shall be elected by the voters qualified to vote for members of the General Assembly, and at the time and place to be prescribed by law. He shall hold his office for the term

of four years, to commence on such a day as may be designated by the General Assembly, and shall be ineligible to that office for four years next succeeding his election, but shall not be eligible for more than eight years, nor to any other office during his term of service.

2. No person shall be eligible to the office of Governor, unless he has attained the age of thirty years, is a native citizen of the United States, and has been a citizen of any county, city or town, forming a part of this State, for five years next preceding his election.

3. The Governor shall reside at the Seat of Government, shall receive three thousand dollars for each year of his services, and during his continuance in office, shall receive no other emolument from this State or any other Government.

4. The Governor shall be Commander-in-Chief of the Military forces of the State, shall have power to call out the Militia, to repel invasion, to suppress insurrection, and enforce the execution of the laws; conduct in person, or in such manner as may be prescribed by law, all intercourse with other and foreign States; and during the recess of the General Assembly, shall fill, *pro tempore*, all vacancies in those offices for which the Constitution and the laws make no provisions; but appointment to such vacancies shall be by commissions to expire at the end of thirty days after the commencement of the succeeding session of the General Assembly. He shall take care that the laws be faithfully executed; communicate to the General Assembly at each session thereof, the condition of the Commonwealth; recommend to the consideration of the members such measures as he may deem expedient, and convene the General Assembly in extra session when in his opinion the interests of the Commonwealth may require it. He shall have power to remit fines and penalties in such cases and under such regulations as may be prescribed by law; to commute capital punishment; and, except when the prosecution has been carried on by the House of Delegates, to grant reprieves and pardons after the conviction; but he shall communicate to the General Assembly, at each session, the particulars of every case of fine or penalty remitted, of punishment commuted, and of reprieve or pardon granted, with his reasons for remitting, commuting or granting the same.

5. The Governor may require information in writing from the officers in Executive Departments upon any subject relating to the duties of their respective offices, and also the opinion in writing of the Attorney General upon any question of law, pertaining to the business of the Executive Department.

6. Returns of the Elections of Governor shall be made in such

manner and by such persons as shall be prescribed by the General Assembly, to the Secretary of the Commonwealth, who shall deliver them to the Speaker of the House of Delegates, on the first day thereafter of the organization of the General Assembly.

The Speaker of the House of Delegates shall within ten days thereafter in the presence of a majority of the Senate and House of Delegates, open the said returns, and the votes shall then be counted. The person having the highest number of votes, if qualified according to the 2nd Section of this article, shall be declared elected, but if two or more shall have the highest and an equal number of votes, one of them shall thereupon be chosen Governor by the joint vote of the two Houses of the General Assembly. Contested elections for Governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

7. A Lieutenant-Governor, shall be elected at the same time, and for the same term as the Governor, and his qualification and the manner of his election in all respects shall be the same.

8. In case of the removal of the Governor from office, or of his death, failure to qualify within the time that shall be prescribed by law, resignation, removal from the seat of Government, or inability to discharge the duties of the office, the said office, with its compensation, power and authority, shall devolve upon the Lieutenant-Governor, and the General Assembly shall provide by law for the discharge of the executive functions in all other necessary cases.

9. A Secretary of the Commonwealth, Treasurer and an Auditor of Public Accounts shall be elected at the same time and for the same term as the Governor, their qualification and the manner of their election in all respects shall be the same, and their compensation and duties shall be prescribed by the General Assembly.

10. The General Assembly shall have power to establish a Land Office, whenever it shall be deemed expedient, assign the duties thereof to a proper officer, and prescribe his compensation, term of, and manner of appointment, to, office.

11. The General Assembly shall have authority to vest the management and control of the works of Internal Improvement of the State, the disposition and investment of the fund arising therefrom, or that may be created for that purpose, in the Governor, Treasurer and Auditor, and to prescribe their duties as a Board of Public Works.

12. The manner of appointing Militia Officers, the enrollment of the Militia, and how it shall be called forth for actual service or drill shall be prescribed by law, but no officer below the rank of Brigadier General shall be appointed by the General Assembly.

13. Commissions and grants shall run in the name of the Commonwealth of West Virginia, and bear teste by the Governor, with the seal of the Commonwealth annexed.

By order of the Committee,

E. H. CALDWELL, Chairman.

Mr. Ruffner and Mr. Caldwell from said Committee, submitted the following substitute for the 9th Section of the foregoing report, which was also laid on the table and ordered to be printed.

#### SUBSTITUTE FOR THE 9TH SECTION.

9. A Secretary of the Commonwealth, Treasurer and an Auditor of Public Accounts, shall be elected by the joint vote of the two Houses of the General Assembly, and continue in office for the term of four years, unless sooner removed. The Secretary shall keep a record of the official acts of the Governor, which shall be signed by the Governor and attested by the Secretary; and when required, he shall lay the same, and any papers, minutes and vouchers, pertaining to his office, before either House of the General Assembly, and shall perform such other duties as may be prescribed by law.

The powers and duties of the Treasurer and Auditor shall be such as may be prescribed by the General Assembly of the Commonwealth, and their compensation, as well as that of the Secretary of the Commonwealth, shall be fixed by law.

LEWIS RUFFNER,  
E. H. CALDWELL.

Mr. Stevenson of Wood, presented a petition from various citizens of Wood county, requesting that this Convention should provide for voting by ballot in all elections by the people.

Mr. Van Winkle submitted a proposition relative to the jurisdiction of the Justices of the Peace, which was referred to the Committee on the Judiciary Department.

Mr. Dering submitted a proposition relative to the ineligibility of Sheriffs after serving one term, which was referred to the Committee on County Organization.

On motion of Mr. Van Winkle, the Convention proceeded to the further consideration of the report of the Committee on Fundamental and General Provisions, whereupon the 7th Section was read.

Mr. Pomeroy moved to amend the same by striking out all after the words "in all," and insert the following words: "elections by the people, the mode of voting shall be by ballot."

And the question being upon the adoption of said amendment, it was put, and was decided in the affirmative.

Mr. Brown of Kanawha, having the floor at half-past twelve o'clock, on motion of Mr. Battelle, the hour of recess was extended to permit Mr. Brown to conclude his remarks, after which, and pending the adoption of the 7th Section, as amended, the Convention took a recess until half-past three o'clock.

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3½ O'CLOCK, P. M.

The President resumed the chair at the appointed hour.

Mr. Stuart of Doddridge, said that the order of the day, the report of the Committee on Boundary, had been passed by, and he moved to take up that report, which was agreed to, and the first resolution of the report was read, whereupon,

Mr. Lamb moved to amend the resolution by striking out the words "Buchanan and Wise," in the 10th line, and insert "and" before the word McDowell, in the same line, and the question being upon the adoption of Mr. Lamb's amendment it was agreed to.

Mr. Harrison moved to amend the same resolution by striking out the word "McDowell," in the 10th line, and Mr. Dille moved to amend the amendment by striking out the words "Pocahontas, Greenbrier, Monroe, Mercer and McDowell," and the question being on the adoption of the amendment to the amendment.

On motion of Mr. Dering, the Convention adjourned.

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FRIDAY, DECEMBER 6, 1861.

The Convention met pursuant to adjournment, and was called to order by the President.

The Session was opened with prayer by the Rev. D. W. Fisher, of the Presbyterian Church.

The minutes of the preceding day were read, corrected, and approved.

On motion of Mr. Warder, the following resolution was adopted:

*Resolved*, That this Convention will meet in this Hall on Monday, December 9th, 1861, at 2 o'clock, P. M.; and in a body, visit the 5th Ward Public School of this city, in compliance with the invitation received and accepted on Wednesday; and that the Secretary of this Convention immediately inform the officers of said School, of the proposed visit.

Mr. Dolly offered the following resolution, which on motion of Mr. Pomeroy, was laid on the table:

*Resolved*, That the people of West Virginia now in Convention in the city of Wheeling to revise and frame a Constitution for the proposed new State, do, before further proceeding in the annexation of counties, repeal the act of the former Convention, on boundary.

Mr. Ruffner submitted the following resolution, which was referred to the appropriate committee :

*Resolved*, That if, from any cause full and free expression of the popular will, in the counties embraced in the tables B, C, and D, in the report of the Committee on Boundary, or any of the said Districts, on the said 3rd Thursday of April, 1862, provision shall be made for eliciting the same on some other day.

Mr. Wilson submitted a proposition in relation to the subject of Free Schools, which was referred to the appropriate committee.

The report of the Committee on Boundary was then taken up for further consideration, and the President stated that the question was on the adoption of the amendment of Mr. Dille, to the amendment of Mr. Harrison to the first resolution of said report, which was before the Convention when it adjourned last night, pending the consideration of which, the hour of 12½ o'clock having arrived, the Convention took a recess until 3½ o'clock.

3½ O'CLOCK, P. M.

The Convention re-assembled.

The President laid before the Convention a communication from the Secretary of the Commonwealth, furnished under a resolution adopted on a former day, showing the vote for and against a division of the State, which was laid on the table and ordered to be printed.

The Convention resumed the consideration of the report of the Committee on Boundary; and the question being upon the amendment of Mr. Dille to the amendment of Mr. Harrison, which the President stated to be as follows: Mr. Harrison moved to amend the first resolution of the report by striking out in the 10th line, the word "McDowell;" and that Mr. Dille moved to amend the amendment by striking out all after the word "of" in the 9th line to the word "be," in the 10th line, and upon the amendment of Mr. Dille, the yeas and nays were demanded, which demand being sustained, the amendment was rejected—yeas 10, nays 35.

And on motion of Mr. Stuart of Doddridge, the vote was recorded as follows:

YEAS—Messrs. Brooks, Dering, Dille, Hanesley, Irvine, Parsons, Powell, Paxton, Trainer, Willey—10.

NAYS—Messrs. John Hall, (President,) Brown of Preston, Brown of Kanawha, Brumfield, Battelle, Chapman, Caldwell, Carskadon, Cassady, Dolly, E. B. Hall, Harrison, Hubbs, Hervey, Hagar, Lamb, Lauck, Mon'ague, Mahon, O'Brien, Parker, Pomeroy, Ruffner, Sinsel, Simmons, Stevenson of Wood, D. F. Stewart, Sheets, Soper, C. J. Stuart, Taylor, Van Winkle, Walker, Warder, Wilson—35.

The question then recurring upon the adoption of the amendment of Mr. Harrison, it was decided in the negative.

And on motion of Mr. Willey, the Convention then adjourned.

## SATURDAY, DECEMBER 7, 1861.

The Convention met pursuant to adjournment, and after prayer, by the Rev. R. V. Dodge, of the Presbyterian Church, the Journal of yesterdays proceedings was read and approved.

The President stated the report of the Committee on Boundary was before the Convention, and that the question was upon the adoption of the first resolution as amended on Thursday.

Mr. Willey moved to amend the said resolution as follows:

Strike out all after the word "Resolved," and insert—

"That the district comprising the counties of Pocahontas, Greenbrier, Monroe, Mercer, McDowell, Buchanan and Wise, ought to be included in, and constitute part of, the proposed State of West Virginia, provided a majority of the votes cast within the said district, at elections to be held for the purpose, on the       day of

     , and a majority of said counties are in favor of the adoption of the Constitution to be submitted by this Convention; and if a majority of said votes cast, and of said counties, are so in favor of said Constitution, that the Legislature be requested to include the said district as a part of the proposed State of West Virginia."

And pending the consideration of Mr. Willey's amendment, the hour of 12½ o'clock having arrived, the Convention took a recess until 3½ o'clock.

3½ O'CLOCK, P. M.

The President resumed the chair and stated that the subject before the Convention was the amendment of Mr. Willey, who, during the progress of the debate, modified his amendment, by general consent, striking out the words "Buchanan and Wise," and the question being upon the amendment of Mr. Willey, as modified

it was put and decided in the negative, and the question recurring upon the adoption of the first resolution of the report as amended on Thursday, the yeas and nays were demanded, which demand being sustained, the resolution was adopted—yeas 27, nays 15.

And on motion of Mr. Willey the yote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brumfield, Chapman, Cassady, Dolly, E. B. Hall, Hubbs, Hagar, Lamb, Lauck, Montague, Mahon, O'Brien, Parker, Ruffner, Sinsel, Simmons, B. F. Stewart, Soper, C. J. Stuart, Taylor, Van Winkle, Walker, Warder, Wilson—27.

NAYS—Messrs. Brooks, Battelle, Carskadon, Dering, Dille, Hansley, Haymond, Harrison, Irvine, Parsons, Powell, Paxton, Stevenson of Wood, Trainer, Willey—15.

And on motion of Mr. Van Winkle the Convention adjourned.

### MONDAY, DECEMBER 9, 1861.

The Convention assembled pursuant to adjournment, and after prayer by Rev. Gideon Martin, the minutes of the preceding day were read and approved.

Mr. Dering presented a petition from a considerable number of the citizen Monongalia county, praying that the Delegates from said county use their best efforts to have a provision engrafted in the Constitution to be framed by this Convention, debarring all traitors from the right of voting until pardoned by the Government of the United States, and to place them on a footing with foreigners, which was read and laid on the table upon the motion of Mr. Dering.

Mr. Stuart of Doddridge, moved to take up the second resolution of the report of the Committee on Boundary, whereupon, Mr. Battelle offered as a substitute, that the Convention, for the present, pass by the report of that committee, and the question being upon the substitute it was rejected, and the motion of Mr. Stuart of Doddridge, was agreed to.

So the second resolution was read, when Mr. Van Winkle stated that in pursuance of an agreement heretofore made, the counties of Buchanan and Wise would be inserted in the second resolution, after the word "Scott," as if originally reported in it, which was assented to.

Mr. Brown of Kanawha, moved to amend the second resolution by including all the counties named in the third resolution in the second, and also the county of Frederick, which was omitted in the resolution. Pending the consideration of which, the hour of 12½ o'clock having arrived, the Convention took a recess.

3½ O'CLOCK, P. M.

The President resumed the chair at 3½ o'clock.

And pending the consideration of the amendment of Mr. Brown of Kanawha, he withdrew said amendment, and offered to amend the second resolution by striking out the word "resolved" in the ninth line in the third resolution, and inserting "and" in lieu of it, thereby including the third resolution in the second.

And the question being upon the adoption of the amendment of Mr. Brown of Kanawha, and the yeas and nays being demanded, and the demand being sustained, the amendment was rejected—yeas 10, nays 35.

And on motion of Mr. Stevenson of Wood, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Chapman, Carskadon, Dolly, E. B. Hall, Ruffner, C. J. Stuart, Walker—10.

NAYS—Messrs. Brown of Preston, Battelle, Caldwell, Cassady, Dering, Dille, Hansley, Haymond, Harrison, Hubbs, Hervey, Hagar, Irvine, Lamb, Lauck, Montague, Mahon, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Sinsel, Simmons, Stevenson of Wood, B. F. Stewart, Sheets, Soper, Taylor, Trainer, Van Winkle, Willey, Warder, Wilson—35.

And on motion of Mr. Powell, the Convention adjourned.

## TUESDAY, DECEMBER 10, 1861.

The Convention met pursuant to adjournment, and was called to order by the President, after which the session was opened with prayer by Rev. Dr. Collier, Chaplain of the 34th Ohio Volunteers.

The minutes were read and approved.

The second resolution in the report of the Committee on Boundary coming up for consideration,

Mr. Sinsel moved to amend the same by striking out the words "votes cast," in the 15th line, and insert in their stead, the words "qualified voters," and insert before the word "and," in the 17th line, the words "is cast in favor of," and the question being upon the amendment of Mr. Sinsel, it was put and decided in the negative.

Mr. Caldwell moved to strike out in the said resolution, all after the word "Resolved," but afterwards withdrew his motion.

Mr. Brown of Kanawha, moved to amend the second resolution, by inserting, in the 15th line, in lieu of the words "the said district," the words "each of said counties," and strike out, in the 19th line, the words "and a majority of the said counties."

Pending the consideration of which, the hour of 12½ o'clock having arrived, the Convention took a recess until 3½ o'clock, P. M.

3½ O'CLOCK, P. M.

The President resumed the chair at the usual hour.

Mr. Hervey submitted two resolutions relating to the subject of annexing the counties of Alleghany and Washington, in Maryland, to West Virginia, which, on his motion, was laid on the table, and ordered to be printed.

Mr. Powell submitted a proposition on the subject of prohibiting Banks from suspending specie payment, and the registry of bills and notes, which was referred to the appropriate committee.

Mr. Brown of Kanawha, withdrew his amendment to the second resolution, which he proposed this morning.

And the question being upon the adoption of the second resolution, the yeas and nays were demanded, which demand being sustained, the resolution was rejected—yeas 17 nays 28.

And on motion of Mr. Pomeroy the vote was recorded as follows:

YEAS—Messrs. John Hall, (President,) Brown of Kanawha, Brumfield, Chapman, Carskadon, Dolly, E. B. Hall, Hubbs, Montague, Mahon, Sinsel, Simmons, Sheets, C. J. Stuart, Van Winkle, Wilson, Walker—17.

NAYS—Messrs. Brown of Preston, Battelle, Caldwell, Cassady, Dering, Dille, Hansley, Haymond, Harrison, Hervey, Hagar, Irvine, Lamb, Lauck, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Ruffner, Stevenson of Wood, B. F. Stewart, Soper, Taylor, Trainer, Willey, Warder—28.

Mr. Stuart of Doddridge, moved to take up the 3rd resolution, which was agreed to. The county of Frederick was inserted in the resolution, by general consent, it having been accidentally omitted.

Mr. Sheets moved to amend the resolution by striking out the counties of Hardy and Hampshire, but afterwards withdrew the same.

On motion of Mr. Sinsel, it was resolved that this Convention will meet at 10 o'clock, A. M., until otherwise ordered.

On motion of Mr. Mahon, the Convention adjourned.

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### WEDNESDAY, DECEMBER 11, 1861.

The Convention met pursuant to adjournment, and after prayer, by Rev. J. S. Pomeroy, a member of the Convention, the minutes of the preceding day were read and approved.

Mr. Brumfield submitted the following resolution, which, on his motion, was laid on the table:

*Resolved*, That when this Convention adjourns on Saturday, the 21st of December, that it adjourns to re-assemble on the 7th day of January, 1862, in the city of Wheeling.

The President stated that the Convention, when it adjourned last

night, had under consideration, the 3rd resolution of the report of the Committee on Boundary, and that the question was upon the adoption of that resolution.

Mr. Willey moved to strike out of the said resolution, the word "Alleghany," and the question being put upon striking out, it was agreed to.

Mr. Hervey moved further to amend the same by striking out the counties of Jefferson, Berkley, Morgan, Pendleton, Highland, Bath and Frederick.

And the question being upon the amendment of Hr. Hervey, the yeas and nays were demanded, and the demand recurring a second time, the amendment was lost—yeas 11, nays 34.

And on motion of Hr. Hervey, the vote was recorded as follows:

**YEAS**—Messrs. Brown of Preston, Brumfield, Cassady, Hansley, Hervey, Mahon, Powell, Parker, Paxton, Taylor, Walker—11

**NAYS**—Messrs. John Hall, (President,) Brown of Kanawha, Brooks, Battelle, Chapman, Caldwell, Carskadon, Dering, Dille, Dolly, E. B. Hall, Haymond, Hubbs, Hagar, Irvine, Lamb, Lauck, Montague, O'Brien, Pomeroy, Ruffner, Sinsel, Simmons, Stevenson of Wood, B. F. Stewart, Sheets, Soper, C. J. Stuart, Trainer, Van Winkle, Willey, Warder, Wilson—34.

Mr. Pomeroy moved to amend the said resolution by striking out the county of Bath, and the question being put, was decided in the affirmative.

The hour of 12½ o'clock having arrived, the Convention took a recess until 3½ o'clock this afternoon.

3½ O'CLOCK, P. M.

The President resumed the chair, and laid before the Convention a copy of the School Laws of Ohio, presented as he said by Judge Simpson of Ohio, to the Convention.

On motion of Mr. Van Winkle, the thanks of the Convention were tendered to Judge Simpson for his kindness in the gift of the book referred to.

On motion of Mr. Hervey the volume was placed in the hand of the chairman of the Committee on Education.

The third resolution of the report of the Committee on Boundary was taken up, whereupon,

Mr. Tayler moved further to amend the same by striking out the county of "Highland," which motion was agreed to.

Mr. Ruffner moved further to amend the same by striking out the county of "Pendleton," and the question was put and decided in the negative.

Mr. Lamb moved to amend the same by inserting after the words "3rd Thursday in April, in the year 1862," in the twenty-fourth line, the words "or such other day as the Legislature of Virginia may appoint;" and the question being upon this amend-

ment, the yeas and nays were demanded, which demand being sustained, the amendment was lost—yeas 22, nays 22.

And on the motion of Mr. O'Brien, the vote was recorded as follows:

YEAS—Messrs. Brown of Kanawha, Battelle, Caldwell, Carskadon, Cassady, Dering, Dille, Dolly, Hubbs, Lamb, Powell, Ruffner, Sinsel, Simmons, Stevenson of Wood, Sheets, Taylor, Trainer, Van Winkle, Willey, Walker, Warder—22.

NAYS—Messrs. John Hall (President), Brown of Preston, Brumfield, Chapman, Hansley, E. B. Hall, Haymond, Hervey, Hagar, Irvine, Lauck, Montague, Mahon, O'Brien, Parsons, Parker, Paxton, Pomeroy, B. F. Stewart, Soper, C. J. Stuart, Wilson—22.

Mr. Stuart of Doddridge, moved to amend the said resolution by striking out all after the word "State," in the twenty-second line; pending the consideration of which,

On motion of Mr. Stuart of Doddridge, the Convention adjourned.

## THURSDAY, DECEMBER 12, 1861.

The Convention met pursuant to adjournment, and was called to order by the President, after which the session was opened with prayer by the Rev. Thos. H. Trainer, a member of this Convention.

On motion of Mr. Willey, he was granted leave of absence for ten days.

The President stated the question to be upon the amendment offered yesterday, by Mr. Stuart of Doddridge, to the 3rd resolution of the report of the Committee on Boundary; and upon this question the yeas and nays were demanded, which demand being sustained, the amendment was rejected—yeas 9, nays 37.

And on motion of Mr. Stuart of Doddridge, the vote was recorded as follows:

YEAS—Messrs. John Hall, (President,) Brown of Kanawha, Chapman, Dolly, E. B. Hall, Ruffner, Sheets, Soper, C. J. Stuart—9.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Caldwell, Carskadon, Cassady, Dering, Dille, Hansley, Haymond, Harrison, Hubbs Hervey, Hagar, Irvine, Lamb, Lauck, Montague, Mahon, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Sinsel, Simmons, Stevenson of Wood, B. F. Stewart, Taylor, Trainer, Van Winkle, Willey, Walker, Warder, Wilson—37.

Mr. Willey moved to amend the said resolution by striking out all after the word "Resolved," and insert—

"That the counties of Pendleton, Hardy and Hampshire ought to be included in the proposed State of West Virginia, *provided*, a majority of the votes cast in the said county of Pendleton, and also in the said county of Hardy, and also in the said county of Hampshire, at elections to be held therein, on the            day of           , 1862, is in favor of the adoption of the Constitution to be submitted by this Convention.

*Resolved*, That the county of Morgan, ought to be included in

the said State, *provided*, a majority of the votes cast therein, on the day aforesaid, is in favor of the adoption of said Constitution, and *provided* further, that the said counties of Pendleton, Hardy and Hampshire, should be included therein as aforesaid.

*Resolved*, That the county of Berkley ought to be included in the said State, *provided*, a majority of the votes cast thererein on the day aforesaid, is in favor of said Constitution; and *provided* further, that the said counties of Pendleton, Hardy, Hampshire, Morgan and Berkley, shall be included therein as aforesaid.

*Resolved*, That the county of Frederick ought to be included in the said State, *provided*, a majority of the votes cast therein on the day aforesaid, is in favor of the adoption of said Constitution, and *provided* further, that the counties of Pendleton, Hardy, Hampshire, Morgan and Berkley, should be included in the said State in manner and form aforesaid."

The hour of 12½ o'clock having arrived, the Convention took a recess until 3½ o'clock this afternoon.

3½ O'CLOCK, P. M.

The President resumed the chair at the usual hour.

Mr. Battelle submitted the following resolution:

*Resolved*, That the debate shall cease and the vote be taken, on the report of the Committee on Boundary, this evening at 4½ o'clock, provided that nothing herein shall be construed to prevent members from offering amendments to the report.

Mr. Stuart of Doddridge, moved to amend the said resolution so as to allow any member to speak five minutes on an amendment, and the same for reply, and the question being put, it was rejected.

Mr. Van Winkle moved to amend the resolution by confining its provisions to the third resolution of the report referred to, which was accepted by the mover, and the question was put upon the passage of the resolution, and it was lost.

The President stated that the question was upon the adoption of the amendment offered by Mr. Willey this morning, which was read, and the question being put, the amendment was rejected.

Mr. Willey moved that Mr. Harrison be added to the Committee on the Judiciary Department, which was agreed to.

Mr. E. B. Hall moved that the Convention reconsider the vote taken yesterday, by which the followidg amendment of Mr. Lamb to the third resolution, was rejected:

"Insert after the words "third Thursday in April, in the year 1862," the words "or such other day as the Legislature of Virginia may appoint," in the twenty-fourth line.

And the question was put upon reconsidering, and the motion was agreed to.

So the question recurred upon the adoption of Mr. Lamb's amendment, when—

Mr. Van Winkle moved to amend the amendment of Mr. Lamb, by inserting after the word "or," the words "if from any cause such elections are not held on that day then on," which amendment was accepted by Mr. Lamb, and the question being upon said amendment, the yeas and nays were demanded, and the demand being sustained the amendment was adopted—yeas 25, nays 19.

And on motion of Mr. Powell, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Brown of Kanawha, Battelle, Chapman, Caldwell, Carskadon, Cassady, Dering, Dille, Dolly, E. B. Hall, Hubbs, Lamb, Lauck, O'Brien, Ruffner, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Stuart of Doddridge, Van Winkle, Warder—25.

**NAYS**—Messrs. Brown of Preston, Brooks, Brumfield, Hansley, Haymond, Harrison, Hervey Hagar, Irvine, Montague, Mahon, Parsons, Powell, Parker, Paxton Pomeroy, Taylor, Trainer, Wilson—19.

Mr. Paxton moved to amend the said resolution further, by striking out the date, in the twenty-fourth line, which being put was decided in the negative.

And the question recurring upon the adoption of the third resolution as amended, the yeas and nays were demanded, which being seconded, the resolution was adopted—yeas 34, nays 11.

And on motion of Mr. Stuart of Doddridge, the vote was recorded as follows:

**YEAS**—Messrs. John Hall [President], Brown of Kanawha, Brooks, Battelle, Chapman, Caldwell, Carskadon, Cassady, Dering, Dolly, Hall of Marion, Haymond, Hubbs, Hervey, Hagar, Lamb, Lauck, Montague, Mahon, O'Brien, Ruffner, Sinsel, Simmons, venson of Wood, Stewart of Wirt, Sheets, Soper, Stuart of Doddridge, Taylor, Trainer, Van Winkle, Warder, Willson—34.

**NAYS**—Messrs. Brown of Preston, Brumfield, Dille, Hansley, Harrison, Irvine, Parsons, Powell, Parker, Paxton, Pomeroy—11.

Mr. Stevenson of Wood, with leave of the House, submitted the following resolution, which was adopted:

*Resolved*, That a committee be appointed, to be called the Committee on Revision and Engrossment, and to be composed of the Chairmen of the several Standing Committees on the Constitution, whose duty it shall be to revise the language, and arrangement of the several Articles, Sections and Clauses of the Constitution, and to report the same, with the alterations they propose for the final action of the Convention.

The 4th resolution of the report of the Committee on Boundary was taken up in order and it was rejected.

The 5th resolution of said report was thereupon adopted.

And the question then recurred upon the adoption of the whole report, as amended, but on motion of Mr. Stuart of Doddridge, the Convention adjourned.

FRIDAY, DECEMBER 13, 1861.

The Convention assembled pursuant to adjournment, and was called to order by the President.

The session was opened with prayer by the Rev. H. C. Sanford, of the M. E. Church.

The minutes of the preceding day were read and approved.

Mr. Caldwell submitted a proposition upon the subject of restricting the State in the contracting of Public Debts, which was referred to the Committee on Taxation and Finance.

Mr. Stevenson of Wood, called the attention of the members of the Convention to a communication in the "*Daily Intelligencer*," from Professor Martin, of Meadville, Pa., upon the subject of Education and Free Schools.

The President then stated that the question recurred upon the adoption of the report of the Committee on Boundary, as amended, when Mr. Stuart of Doddridge, offered the following amendment to said report:

"*Resolved*, That the counties of Loudon and Fairfax be included in and constitute a part of the State of West Virginia: *provided*, a majority of the votes cast in said counties on the third Thursday, in April next, be in favor of coming in, and also in favor of the Constitution that may then be submitted to them; *provided further*, that the said counties of Loudon and Fairfax, are not to become a part of the new State, except the district composed of the counties of Jefferson, Berkley, Morgan, Hampshire, Hardy, Pendleton and Frederick, become a part of the proposed State."

And the question being put upon said amendment, it was lost.

Mr. Sheets moved to amend said report by striking out the counties of Hampshire and Hardy from the third resolution, and inserting them in the first resolution.

And the question being upon the said amendment, the yeas and nays were demanded, which demand being seconded, the amendment was rejected—yeas 18, nays 25.

And on motion of Mr. Sheets, the vote was recorded as follows:

YEAS—Messrs. John Hall, (President,) Brown of Kanawha, Chapman, Cassady, Dolly, Hansley, Haymond, Irvine, Montague, O'Brien, Parker, Pomeroy, Ruffner, Simmons, Sheets, Stuart of Doddridge, Walker, Willson—18.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Caldwell, Carskadon, Dille, Hall of Marion, Harrison, Hubbs, Hervey, Hagar, Lamb, Lauck, Mahon, Parsons, Powell, Paxton, Sinsel, Stevenson of Wood, Stewart of Wirt, Soper, Taylor, Trainer, Van Winkle, Warder—25.

Mr. Ruffner moved to amend the said report by inserting the counties of Buchanan and Wise, in the first resolution; and the question was put and decided in the negative.

The hour of 12½ o'clock having arrived, the Convention took a recess until 3½, P. M.

3½ O'CLOCK, P. M.

The Convention re-assembled at the usual time.

The report of the Committee on Boundary was further considered.

Mr. Hall of Marion, submitted the following amendment to said report, to be inserted at the end of the 26th line :

"But if a majority of the votes cast in the said counties of Pendleton, Hardy, Hampshire, Morgan, Jefferson, Berkley and Frederick be not in favor of forming part of the said new State, then that said last named counties be included ;" and the question being put upon the adoption of said amendment, it was agreed to.

Mr. Stevenson of Wood, moved to amend said report by striking out the date for holding the election, in the 24th line, which was agreed to.

Mr. Sinsel moved further to amend the same, by striking out in the 24th and 25th lines, the words "and a majority of the said counties," which was disagreed to.

And the question was put upon the adoption of the said report as amended, and the yeas and nays were demanded, which demand being sustained, the report, as amended, was adopted—yeas 32, nays 11.

And on motion of Mr. Brown of Preston, the vote was recorded as follows :

YEAS—Messrs. John Hall, (President,) Chapman, Caldwell, Carskadon, Cassady, Dering, Dolly, Hall of Marion, Haymond, Hubbs Hervey, Hagar, Irvine, Lamb, Lauck, Montague, Mahon, O'Brien, Parker, Ruffner, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets Soper, Stuart of Doddridge, Trainer, Van Winkle, Walker, Warder, Wilson—82.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Dille, Hansley, Harrison, Parsons, Powell, Paxton, Pomeroy, Taylor—11.

Mr. Van Winkle submitted the following resolution, which was adopted :

*Resolved*, That the resolutions reported by the Committee on Boundary, as passed by the Convention, be recommitted to the said committee, with instructions to report a provision to be inserted in the Constitution, embracing the substance of the said resolutions, and fully defining the boundaries of the proposed new State.

Mr. Van Winkle moved that the Convention take up the report of the Committee on Fundamental and General Provisions for further consideration, and that it be made the order of the day every day until disposed of, which was agreed to.

Mr. Lamb moved the adoption of the 7th Section as amended, which the President stated was the question before the Convention, whereupon,

Mr. Soper moved to amend the said Section, by inserting after the word "Ballot," the following:

"Except for such local officers as may by law be directed to be otherwise chosen."

And pending the consideration of said amendment,

Mr. Van Winkle asked that the said Section be passed by for the present, by general consent, which was agreed to.

Whereupon the 8th Section of said report was read and adopted.

The 9th Section was read, when—

Mr. Parker moved to amend the same by striking out the word "Senators," in the fourth line of the resolution.

Pending the consideration of which,

Mr. Lamb moved to pass by the 9th Section of the said report for the present, which was agreed to.

The 10th Section was then read, and Mr. Van Winkle asked for a division of the question, which was assented to, after which he moved the adoption of the first clause to the word "State" when Mr. Hervey moved to insert after the word "State," at the end of said clause, the words "and the oath of office," but he afterwards withdrew it, and the said clause was adopted.

The question then arose upon the adoption of the remainder of the said Section, and the question being put, it was decided in the affirmative.

Upon the reading of the 11th Section, Mr. Van Winkle moved to refer the same back to the committee, which was agreed to.

The 12th Section was then read and adopted.

The 13th Section was read, when—

Mr. Lamb moved to strike out the same, pending the consideration of which,

On motion of Mr. Hall of Marion, the Convention adjourned.

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## SATURDAY, DECEMBER 14, 1861.

The Convention met pursuant to adjournment, and was called to order by the President.

The session of the Convention was opened with prayer by the Rev. Gordon Battelle, a member of this Convention.

The minutes were read and approved.

Mr. Battelle submitted a paper relative to the subject of slavery, and providing for general and equitable emancipation, which was read, laid on the table, ordered to be printed and referred to the Committee on Fundamental and General Provisions.

Mr. Brown of Preston, submitted a resolution relative to the per diem and mileage of the members of the General Assembly at its first session under the new Constitution, which was referred to the Committee on the Schedule.

It was resolved, on motion of Mr. Hervey, that the Convention take no recess to-day.

The President stated that the question before the Convention, was the amendment of Mr. Lamb, to strike out the 13th Section of the report of the Committee on Fundamental and General Provisions; and the question being put upon said amendment, it was rejected.

Mr. Paxton moved to amend the said Section, by striking out the second clause, beginning at the word "every," and including the word "State."

Pending the consideration of which,

On motion of Mr. Caldwell, the Convention adjourned.

## MONDAY, DECEMBER 16, 1861.

The Convention met pursuant to adjournment, and after prayer by the Rev. Robert Hagar, a member of this Convention, the minutes were read and approved.

On motion of Mr. Brown of Kanawha, Mr. Ruffner was granted leave of absence for ten days.

Mr. Stevenson of Wood, made a verbal report from the Committee on Printing and Expenditures.

And on motion of Mr. Stuart of Doddridge, the said Committee were discharged from the further consideration of the propriety of reporting and publishing the debates of this Convention.

On motion of Mr. Van Winkle, the following resolution was adopted:

*Resolved*, That the Committee on Printing and Expenditures report an estimate of the sum which will probably be required to pay the members and officers and defray all other expenses of this Convention, based upon a probable session of sixty-five days, in order that the same may be laid before the Legislature for their government.

Mr. Brumfield moved to take up the resolution heretofore offered by him, providing for a recess from the 21st instant till the 7th of January next, which motion was agreed to.

Mr. Van Winkle moved to amend the same, by striking out "Saturday, the 21st," and insert "Friday, the 20th," which was agreed to.

Mr. Sinsel moved to strike out "7th of January, 1862," and insert "December 31st, 1861," and the question being put, Mr. Sinsel's amendment was rejected.

The question being upon the adoption of the resolution, as amended, Mr. Lamb asked to be excused from voting, and he was excused, whereupon the yeas and nays were demanded, which demand being sustained, the resolution was adopted—yeas 25, nays 14.

And on motion of Mr. Hall of Marion, the vote was recorded as follows :

YEAS—Messrs. John Hall, (President,) Brooks, Brumfield, Battelle, Carskadon, Caswady, Dering Dolly, Hansley, Hubbs, Hagar, Montague, Powell, Parker, Paxton, Pomeroy, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Stuart of Doddridge, Taylor, Van Winkle, Walker, Wilson—25.

NAYS—Messrs. Brown of Preston, Brown of Kanawha, Chapman, Dille, Hall of Marion, Haymond, Harrison, Irvine, Mahon, O'Brien, Parsons, Sinsel, Simmons, Warder—14.

The President stated that the further consideration of the report of the Committee on Fundamental and General Provisions was the order of the day, and that the question was upon the adoption of the amendment of Mr. Paxton, offered last Saturday, to strike out the second Section.

Mr. Haymond moved that the Convention reconsider the vote taken on Saturday, refusing to strike out the 13th Section of said report, which motion was agreed to.

The question then recurred upon the motion to strike out said Section, and the question being put, it was decided in the negative.

The question then being upon the amendment of Mr. Paxton, to strike out the second sentence, the hour of 12½ o'clock arrived, and the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

The amendment of Mr. Paxton to strike out the second sentence of the said Section, was agreed to.

On motion of Mr. Stevenson of Wood, the following amendment to the 13th Section was inserted after the words "aid and comfort:"

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court."

Whereupon the 13th Section, as amended, was adopted.

The 14th Section was then read and adopted.

Mr. Van Winkle moved that the said report, as amended, be recommitted to the Committee on Fundamental and General Provisions, and the motion being put, was agreed to.

Mr. Sheets moved to reconsider the vote taken this morning, by which the Committee on Printing and Expenditures were discharged from further considering the propriety of reporting and publishing the Debates of the Convention; and the motion to reconsider was agreed to.

The question then recurred upon the adoption of the resolution of Mr. Stuart of Doddridge, and the yeas and nays were demanded, which demand being sustained, the resolution was adopted—yeas 24, nays 16.

And on motion of Mr. Van Winkle the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brooks, Brumfield, Chapman, Cassady, Dille, Dolly, Hall of Marion, Harrison, Hagar, Irvine, Lamb, Montague, Mahon, O'Brien, Parsons, Powell, Parker, Simmons, Stuart of Doddridge, Taylor, Walker, Wilson—28.

NAYS—Messrs. Battelle, Carskadon, Dering, Hansley Haymond, Hubbs, Hervey, Paxton, Pomeroy, Sinsel, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Van Winkle, Warder—16.

On motion of Mr. Lamb, the report of the Committee on the Legislative Department was taken up for consideration.

Mr. Lamb moved that the words "cities and towns," in the nineteenth line be stricken out, and also that the words "cities and towns," in the twenty-seventh line be stricken out, which motion was agreed to.

And on motion of Mr. Lamb the two Sections of said Report, marked No. 13 and 14, were adopted as amended.

On motion of Mr. Lamb, it was resolved that when this Convention adjourns to-day, it will adjourn to meet to-morrow morning at 11 o'clock.

- Mr. Stevenson of Wood, moved that the salaries of the Officers of this Convention, which are not fixed, be the same as those allowed by the last Convention, which was adopted.

And on motion of Mr. Stevenson of Wood, the Convention adjourned.

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## TUESDAY, DECEMBER, 17, 1861.

The Convention met pursuant to adjournment, and after prayer by Rev. R. L. Brooks, a member of the Convention, the minutes were read and approved.

Mr. Lamb, Chairman of the Committee on the Legislative Department, submitted the Second Report of said Committee, and moved that the reading be dispensed with, and that it be laid on the table and printed:

*Second Report of the Committee on the Legislative Department, submitted December 17th, 1861.*

The Committee respectfully recommend that the following Provisions be inserted in the Constitution of West Virginia:

1. The Legislative power of the State shall be vested in a Senate and House of Delegates. The style of their acts shall be, "*Be it enacted by the Legislature of West Virginia.*"

2. The Senate shall be composed of eighteen, and the House of Delegates of forty-six, members. The term of office for Senators shall be three years, and that of Delegates one year, commencing, in each case, on the 1st day of October next succeeding their election. The regular elections for members of the Legislature shall be held on the 4th Thursday of May. But vacancies in either branch shall be filled by election, for the unexpired term, in such a manner as shall be prescribed by law.

3. For the election of Senators, the State shall be divided into nine Senatorial districts, as nearly equal as possible in white population; each District to choose two Senators. Every such District shall be compact, formed of contiguous territory, and bounded by county lines. After each Census hereafter taken by authority of the United States, the Legislature shall alter the Senatorial Districts, so far as may be necessary to make them conformable to the foregoing provisions.

4. Until the Senatorial Districts shall be differently arranged after the next Census taken by the authority of the United States, the counties of Hancock, Brooke and Ohio shall constitute the first Senatorial District; Marshall, Wetzel and Marion the second; Monongalia, Preston and Taylor the third; Pleasants, Tyler, Ritchie, Doddridge and Harrison the fourth; Wood, Jackson, Wirt, Roane, Calhoun and Gilmer the fifth; Barbour, Tucker, Lewis, Braxton, Upshur and Randolph the sixth; Mason, Putnam, Kanawha, Clay, and Nicholas the seventh; Cabell, Wayne, Boone, Logan, Wyoming, Mercer and McDowell the eighth; and Webster, Pocahontas, Fayette, Raleigh, Greenbrier and Monroe the ninth.

5. For the election of Delegates, every county containing a white population of less than one-half the ratio of representation for the House of Delegates, shall, at each apportionment, be attached to some contiguous county or counties, to form a Delegate District.

6. After each Census hereafter taken by authority of the United States, the Delegates shall be apportioned as follows:

The ratio of representation for the House of Delegates shall be ascertained by dividing the whole white population of the State by

the number of which the House is to consist, and rejecting the fraction of a unit, if any, resulting from such division.

Dividing the white population of every Delegate District, and of every County not included in a Delegate District, by the ratio thus ascertained, there shall then be assigned to each, a number of Delegates equal to the quotient obtained by this division of its white population, excluding the fractional remainder.

The additional Delegates which may be necessary to make up the whole number of which the House is to consist, shall then be assigned to those Delegate Districts, and Counties not included in a Delegate District, which would otherwise have the largest fractions unrepresented. But every Delegate District and County not included in a Delegate District, shall be entitled to at least one Delegate.

7. Until a new apportionment be declared under the next Census to be taken by authority of the United States, the counties of Calhoun and Gilmer shall form the first Delegate District; Clay and Braxton the second; Pleasants and Wood the third; McDowell, Wyoming and Raleigh the fourth; Tucker and Randolph the fifth; and Webster and Nicholas the sixth. And the apportionment of Delegates shall be as follows:

To the third Delegate District, two Delegates; and to the other five, one each.

To Barbour, Boone, Brooke, Cabell, Doddridge, Fayette, Greenbrier, Hancock, Jackson, Lewis, Logan, Mason, Mercer, Monroe, Pocahontas, Putnam, Ritchie, Roane, Taylor, Tyler, Upshur, Wayne, Wetzel and Wirt counties, one Delegate each.

To Harrison, Kanawha, Marion, Marshall, Monongalia and Preston counties, two Delegates each. And to Ohio county, three Delegates.

8. The arrangement of the Senatorial and Delegate Districts, and apportionment of Delegates, shall hereafter be declared by law as soon as possible after each succeeding Census. When so declared, they shall apply to the first regular election for members of the Legislature to be thereafter held; and shall continue in force, unchanged, until the Districts be changed and Delegates re-apportioned under the next Census.

9. No new County shall be formed having an area of less than four hundred and fifty square miles. Nor shall a new County be formed if another County be thereby reduced below that area; or if any territory be thereby taken from a county containing less than four hundred and fifty square miles.

And no new County shall be formed containing a white population of less than four thousand. Nor shall a new County be formed if the white population of another County be thereby reduced below that number; or if any County containing less than four thousand white inhabitants be thereby reduced in area. But the Legislature may, at any time, include any County containing less than four thousand white inhabitants within an adjoining county or counties as part thereof.

10. Additional territory may be admitted into and become part of this State, with the consent of the Legislature thereof. And in such case, the Legislature shall provide by law for the representation of the white inhabitants thereof in the Senate and House of Delegates, in conformity with the principles set forth in this Constitution. And the number of members of which each branch of the Legislature is to consist, shall thereafter be increased by the representation assigned to such additional territory.

11. The Legislature shall have power to provide for a registry of voters, and to prescribe the manner of conducting and making returns of elections, and of determining contested elections. They shall have power to pass all laws necessary or proper to prevent intimidation, disorder or violence at elections, or corruption or fraud in voting.

12. No person shall be a Senator who shall not have attained to the age of twenty-five years; or who was not, at the time of his election, entitled to vote in the Senatorial District for which he was chosen. And no person shall be a Delegate who was not, at the time of his election, entitled to vote in the Delegate District or County for which he was chosen.

Nor shall any person holding an office of profit under this State or the United States; any minister or priest, of a religious denomination; any salaried officer of a banking corporation or company; or any attorney for the State, be a member of either branch of the Legislature.

No person who may have collected, or been entrusted with public money, whether State, county, township or municipal, shall be eligible to the Legislature, or to any office of honor, trust or profit, under this State, until he shall have duly accounted for and paid over such money.

If a Senator or Delegate remove from the district or county, for which he was chosen, his office shall be thereby vacated.

13. Any citizen of this State, who shall, after the adoption of this Constitution, either in or out of the State, fight a duel with deadly weapons, or send or accept a challenge so to do; or who

shall act as second, or knowingly aid or assist in such duel, shall ever thereafter be incapable of holding any office of honor, trust or profit under this State.

14. The Legislature shall meet once in every year, and not oftener, unless convened by the Governor. Unless another time be prescribed by law, the regular session shall begin on the first Monday of December.

15. The Governor may convene the Legislature by Proclamation, whenever in his opinion, the public safety or welfare shall require it. It shall be his duty to convene them, on application of a majority of the members elected to each branch.

16. The Seat of Government shall be at the city of Wheeling, until the Legislature shall establish a permanent Seat of Government by law.

17. When by reason of war, insurrection, contagious or epidemic diseases, or for other cause, the Legislature, in the opinion of the Governor, cannot safely meet at the Seat of Government, the Governor, by proclamation, may convene them at another place.

18. No Session of the Legislature, after the first, shall continue longer than forty-five days, without the concurrence of three-fifths of the members elected to each branch.

19. Neither branch, during the session, shall adjourn for more than two days, without the consent of the other. Nor shall either, without the consent of the other, adjourn to any other place than that in which the Legislature is then sitting.

20. Each branch shall be the judge of the elections, qualifications and returns of its own members.

21. A majority of each branch shall constitute a quorum to do business. But a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner as shall be prescribed by law.

22. The Senate shall choose from their own body a President, and the House of Delegates one of their own number as Speaker. Each branch shall appoint its own officers and remove them at pleasure; and shall determine its own rules of proceedings.

23. Each branch may punish its own members for disorderly behavior; and, with the concurrence of two-thirds of the members present, expel a member; but not a second time for the same offence.

24. Each branch shall have the power necessary to provide for its own safety, and the undisturbed transaction of its own business; and may punish, by imprisonment, any person, not a member, for

disrespectful behavior in its presence; for obstructing any of its proceedings, or any of its officers in the discharge of his duties; or for any assault, threatening or abuse of a member for words spoken in debate. But such imprisonment shall cease at the termination of the session; and shall not prevent the punishment of any offence by the ordinary course of law.

25. For words spoken in debate, or any report, motion or proposition made, in either branch, a member shall not be questioned in any other place.

26. Members of the Legislature shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during the session, and for ten days before and after the same.

27. Senators and Delegates shall receive for their services a compensation to be prescribed by law. No act changing the compensation shall affect members of the Legislature then in office.

28. Bills and resolutions may originate in either branch, to be approved, amended or rejected by the other.

29. No bill shall become a law until it has been fully and distinctly read, on three different days, in each branch; unless in cases of urgency, three-fourths of the members present dispense with this rule.

30. No law shall embrace more than one object, which shall be expressed in its title.

31. On the passage of every bill, the vote shall be taken by yeas and nays, and be entered on the Journal; and no bill shall be passed by either branch without the affirmative vote of a majority of the members elected thereto.

32. The presiding officers of each branch shall sign publicly, in the presence of the branch over which he presides, while the same is in session, all bills and joint resolutions passed by the Legislature.

33. Each branch shall keep a Journal of its proceedings, and cause the same to be published from time to time; and the yeas and nays on any question shall at the desire of one-fifth of those present, be entered on the Journal.

34. No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

35. The Legislature, in cases not provided for in this Constitution, shall prescribe by law the terms of office, powers, duties, and compensation of all officers of the State, and the manner in which they shall be appointed and removed.

36. No extra compensation shall be granted or allowed by the Legislature to any public officer, agent or contractor, after the services shall have been rendered, or the contract entered into. Nor shall the salary or compensation of any public officer be increased or diminished during his term of office, unless the office be abolished.

37. Any officer of the State may be impeached for mal-administration, corruption, neglect of duty, or any high crime or misdemeanor.

The House of Delegates shall have sole power of impeachment. The Senate shall have sole power to try impeachments. When sitting for that purpose, the Senators shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in case of impeachment shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit under the State; but the party convicted, shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to law.

The Senate may sit during the recess of the Legislature for the trial of impeachments.

38. No act to incorporate any joint stock company, or to confer additional privileges on the same; and no private act of any kind, shall be passed, unless public notice of the intended application for such act be given under such regulations as shall be prescribed by law.

39. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened in his body or goods, or otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion; and the same shall in no wise affect, diminish or enlarge their civil capacities. And the Legislature shall not prescribe any religious test whatever; or confer any peculiar privileges or advantages on any sect or denomination; or pass any law requiring or authorizing any religious society, or the people of any district within this State, to levy on themselves or others, any tax for the erection or repair of any house for public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

40. The Legislature shall not grant a charter of incorporation to any church or religious denomination; but may provide by general

laws for securing the title of church property, so that it shall be held and used for the purposes intended.

41. The Legislature shall confer on the Courts the power to grant divorces, change the names of persons, and direct the sales of estates belonging to infants and other persons under legal disabilities; but shall not, by special legislation, grant relief in such cases.

42. The Legislature shall pass laws to protect the special property of the wife against the acts and debts of the husband.

43. No Convention shall be called, having authority to alter the Constitution of the State, unless it be in pursuance of a law passed by the affirmative vote of a majority of the members elected to each branch of the Legislature, declaring distinctly the powers and objects of such Convention, and providing that polls shall be held throughout the State, on some day therein specified, which shall be not less than three months after the passage of such law, for the purpose of taking the sense of the voters on the question of calling a Convention for the purpose and with such powers set forth in such law. And such Convention shall not be held unless a majority of the votes cast at such polls be in favor of calling the same; nor shall members be elected to such Convention, until at least one month after the result of the polls shall be duly ascertained, declared and published. And all Acts and Ordinances of said Convention shall be submitted to the voters of the State for ratification or rejection, and shall have no validity whatever until they are ratified; and in no event shall they, by any shift or device, be made to have any retrospective operation or effect.

DANIEL LAMB, *Chairman*.

Mr. Hervey submitted a paper on the subject of the Judiciary, which was referred to the Committee on that subject.

On motion of Mr. Pomeroy, the Secretary of this Convention was allowed two dollars per day, in addition to the amount fixed on yesterday, to employ an assistant.

On motion of Mr. Stevenson of Wood, the Janitor's per diem was increased from one dollar and a half to two dollars.

Mr. Stevenson of Wood, Chairman of the Committee on Printing and Expenditures, submitted the following report:

The Committee on Printing and Expenditures, having been instructed to "report an estimate of the sum which will probably be required to pay the members and officers, and defray all other expenses of the Convention, based on a probable session of sixty-five days, in order that the same may be laid before the Legislature for their government," would respectfully report that they have made such estimate, and find that the probable expense of the Conven-

tion for a session of sixty-five days, will be sixteen thousand, five hundred dollars.

All of which is respectfully submitted.

W. E. STEVENSON, *Chairman.*

On motion of Mr. Van Winkle, the following resolution was adopted:

*Resolved*, That the report of the Committee be accepted, and that the President of this Convention inform the Legislature that the expenses of this body will probably amount to sixteen thousand, five hundred dollars, and to request that the said sum be placed at the disposal of the Convention.

Mr. Caldwell moved that the report of the Committee on the Executive Department be recommitted to the Committee on that subject, for the purpose of making additions and amendments, which was agreed to.

Mr. Lamb moved that when the Convention adjourn to-day, it will adjourn to meet to-morrow at 11 o'clock.

On motion of Mr. Dering, the Convention adjourned.

### WEDNESDAY, DECEMBER 18, 1861.

The Convention met pursuant to adjournment, and after prayer by the Rev. Thos. H. Trainer, a member of the Convention, the minutes were read and approved.

Mr. Brown of Kanawha, from the Committee on the Legislative Department, submitted the following minority report, which was laid on the table, and ordered to be printed:

*Minority Report of Mr. Brown of Kanawha, from the Committee on the Legislative Department, submitted Dec. 18, 1861.*

The undersigned, one of the Committee on the Legislative Department, not being satisfied with that part of the majority report of said Committee, begs leave to submit the following:

#### FOR THE ELECTION OF SENATORS.

1. The counties of Hancock, Brooke and the county of Ohio, excluding the city of Wheeling, shall constitute one district.
2. The counties of McDowell, Wyoming, Boone and Mercer, shall constitute another district.
3. The city of Wheeling shall constitute another district.
4. The counties of Wayne, Cabell and Logan shall constitute another district.

5. The counties of Preston and Tucker shall constitute another district.

6. The counties of Putnam and Mason shall constitute another district.

7. The counties of Monongalia and Taylor shall constitute another district.

8. The counties of Greenbrier and Monroe shall constitute another district.

9. The counties of Marion and Wetzel shall constitute another district.

10. The county of Kanawha shall constitute another district.

11. The counties of Marshall and Tyler shall constitute another district.

12. The counties of Jackson, Roane and Calhoun shall constitute another district.

13. The counties of Doddridge, Ritchie and Gilmer shall constitute another district.

14. The counties of Wood, Wirt and Pleasants shall constitute another district.

15. The counties of Barbour, Randolph and Pocahontas shall constitute another district.

16. The counties of Fayette, Nicholas, Clay and Webster shall constitute another district.

17. The county of Harrison shall constitute another district.

18. The counties of Lewis, Upshur and Braxton shall constitute another district.

And if the following named counties shall become a part of this State; then—

19. The counties of Pendleton and Hardy shall constitute another district.

20. The counties of Hampshire and Morgan shall constitute another district.

21. The counties of Berkley and Jefferson shall constitute another district.

22. The county of Frederick shall constitute another district.

One Senator to be elected by the voters in each district; or, if double districts should be preferred, then as follows, viz:

1. The counties of Hancock, Brooke and Ohio shall constitute one district.

2. The counties of Wayne, Cabell, Logan, Boone, Wyoming, Raleigh and McDowell shall constitute another district.

3. The counties of Monongalia, Preston, Taylor and Tucker shall constitute another district.

4. The counties of Mason, Putnam, Kanawha and Fayette shall constitute another district.

5. The counties of Marion, Marshall, Wetzel and Tyler shall constitute another district.

6. The counties of Jackson, Wood, Pleasants, Wirt, Calhoun, and Roane shall constitute another district.

7. The counties of Harrison, Barbour, Doddridge and Ritchie shall constitute another district.

8. The counties of Greenbrier, Monroe, Mercer, Nicholas and Clay shall constitute another district.

9. The counties of Lewis, Upshur, Randolph, Pocahontas, Webster, Braxton and Gilmer shall constitute another district.

And if the following counties become a part of this State, then—

10. The counties of Pendleton, Hardy, Hampshire, and Morgan shall constitute another district.

11. The counties of Berkley, Frederick and Jefferson shall constitute another district.

Two Senators to be elected by the voters in each district.

In making the apportionment just stated, the undersigned has kept steadily in view the following considerations, viz:

1st. Equality of population and territory.

2nd. The Geographical features of the territory.

3rd. Compactness in the form of districts.

4th. The homogeneity, social intercourse and business relations of the people of each district and their peculiar and local interests.

Departing from these principles only where it was believed necessity required it, the undersigned has begun at the most remote parts of the State and laid off the Districts alternately at the opposite extremes, and so on till they united in the middle, or as near it as could be ascertained.

JAMES H. BROWN.

Mr. Harrison submitted the following resolution, and asked that it be laid on the table and printed:

*Resolved*, That the Constitution of Virginia be referred to a Committee of five, with instructions to modify the same so as to adapt it to the territory embraced within the new State, and to provide for the formation of a new State Constitution at some future time.

Mr. Van Winkle moved to postpone the consideration of the resolution indefinitely; and the question being upon said postponement, the yeas and nays were demanded, which demand being seconded, the motion was put and decided in the affirmative—yeas 41, nays 2.

And on motion of Mr. Brown of Preston, the vote was recorded as follows:

YEAS—Messrs. John Hull (President), Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, C. L'well, Clarkader, Cassady, Dering, Dille, Dolly, Hansley, Hall of Marion, Haymond, Hubbs, Hervey, Hagar, Irvine, Lamb, Montague, Mahon, O'Brien, Parsons, Parker, Paxton, Pomeroy, Sissel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Stuart of Doddridge, Taylor, Trainer, Van Winkle, Walker, Warder, Wilson—41.

NAYS—Messrs. Harrison, Powell—2.

So the motion to postpone indefinitely was agreed to.

Mr. Battelle asked that the word printed "relatives," in the proposition submitted by him on Saturday, be changed to "relations," which was agreed to.

Mr. Caldwell, Chairman of the Committee on the Legislative Department, submitted the following report, which was ordered to lie on the table and be printed:

*Second Report of the Committee on the Executive Department, submitted December 18th, 1861.*

Your Committee, having had under consideration its first Report, recommitted to them, beg leave to submit the following provisions in lieu of those embodied in the said first Report, viz:

1. The chief Executive power of this Commonwealth shall be vested in a Governor. He shall hold his office for the term of four years, to commence on the 1st day of January next succeeding his election; but the same person shall not be elected for two successive full terms, nor shall any person who has served as Governor for two full terms be again elected to the office. The person acting as Governor shall not be elected or appointed to any other office during his term of service.

2. No person shall be elected Governor unless he has attained the age of thirty years, and has resided in a county forming a part of this State for five years next preceding his election.

3. The Governor shall reside at the Seat of Government; shall receive two thousand five hundred dollars for each year of his service, and during his continuance in office, shall receive no other emolument from this or any other Government.

4. The Governor shall be Commander-in-Chief of the Military forces of the State; shall have power to call out the militia to repel invasion, suppress insurrection, and enforce the execution of the laws; shall conduct in person, or in such manner as may be prescribed by law, all intercourse with other and foreign States; and during the recess of the Legislature, shall fill temporarily all vacancies in office not otherwise provided for, by commissions to expire at the end of thirty days after the commencement of the succeeding session of the Legislature. He shall take care that the laws be faithfully executed; communicate to the Legislature at each

session thereof the condition of the Commonwealth; recommend to the consideration of the members such measures as he may deem expedient; and convene the Legislature in extra session when in his opinion the interest of the Commonwealth may require it. He shall have power to remit fines and penalties in such cases and under such regulations as may be prescribed by law; to commute capital punishment, and, except when the prosecution has been carried on by the House of Delegates, to grant reprieves and pardons, after conviction; but he shall communicate to the Legislature at each session, the particulars of every case of fine or penalty remitted, of punishment commuted, and of reprieve or pardon granted, with his reasons for remitting, commuting or granting the same.

5. The Governor may require information in writing from the Officers of the Executive Department, upon any subject pertaining to their respective offices, and also the opinion in writing of the Attorney General upon any question of law relating to the business of the Executive Department.

6. Returns of the elections of Governor shall be made in the manner and by the persons designated by the Legislature, to the Secretary of the Commonwealth, who shall deliver them to the Speaker of the House of Delegates, on the first day of the next session of the Legislature, who shall, within ten days thereafter, in the presence of a majority of each House of the Legislature open the said returns, when the votes shall be counted. The person having the highest number of votes, if duly qualified, shall be declared elected; but if two or more shall have the highest and an equal number of votes, one of them shall thereupon be chosen Governor by the joint vote of the two Houses. Contested elections for Governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

7. In case of the removal of the Governor from office, or of his death, failure to qualify within the time prescribed by law, resignation, removal from the seat of Government, or inability to discharge the duties of the office, the said office, with its compensation, duties and authority, shall devolve upon the President of the Senate, and in case of his inability, or failure from any cause to act, on the Speaker of the House of Delegates; and the Legislature shall provide by law for the discharge of the executive functions in other necessary cases.

8. A Secretary of the Commonwealth, Treasurer, and an Auditor shall be elected at the same time and for the same term as the Governor, their compensation and duties, and the mode of making returns of their election shall be prescribed by the Legislature.

9. The Legislature shall have power to establish a Land Office whenever it shall be deemed expedient, assign the duties thereof to a proper officer, and prescribe his compensation, term of, and manner of appointment to, office.

10. The Legislature shall have power to vest the management and control of the works of Internal Improvement of the State, the disposition and investment of the fund arising therefrom, or that may be created for that purpose, in the Governor, Treasurer and Auditor, and to prescribe their duties as a Board of Public Works.

11. The Legislature shall have power to provide for the organization of the Militia, and the appointment of Militia Officers; but no officer below the rank of Brigadier General shall be appointed by the Legislature.

12. Commissions and Grants shall run in the name of the Commonwealth of West Virginia, and bear teste by the Governor, with the seal of the Commonwealth annexed.

By order of the Committee,

E. H. CALDWELL, *Chairman.*

Mr. Pomeroy moved that the Convention take up the second Report of the Committee on the Legislative Department, which motion was adopted.

Thereupon the first Section was read, and Mr. Van Winkle moved to strike out the second Clause, but afterwards withdrew the same.

And on motion of Mr. Hervey the first Section was adopted.

The second Section was read, when Mr. Brown of Kanawha, moved to pass by, for the present, the first Clause, and the motion was adopted.

The hour of 12½ o'clock having arrived, the Convention took a recess.

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3½ O'CLOCK, P. M.

The Convention re-assembled.

Mr. Lamb moved to take up such part of the said second Section as did not relate to the number of Delegates and Senators, which was agreed to.

Mr. Van Winkle moved to strike out the words "fourth Thursday of May," in the 12th and 13th lines, and insert in its place, "second Thursday of October."

Mr. Soper asked for a division of the question, whereupon the question was put upon striking out the words "fourth Thursday of May," and the motion was negatived.

Mr. Van Winkle moved that the words "first day of October,"

in the 9th line be stricken out and insert "fourth day of July," and the motion being put, the amendment was adopted.

Mr. Van Winkle, by leave, submitted the following resolution as an amendment to the 19th Rule adopted for the government of the Convention, which was rejected :

*Resolved*, That on the first reading by Sections of a Report from a Standing Committee, it shall not be in order to call the ayes and noes.

Mr. Soper moved further to amend the second Section of said Report by striking out in the 8th line the word "three," and inserting "two," when—

Mr. Hall of Marion, asked for a division, and thereupon the question was put upon striking out the word "three," and the motion was adopted.

Mr. Soper moved to fill the blank by inserting "two."

Mr. Brown of Kanawha, moved to amend the amendment by inserting "four," and the question was put upon the amendment to the amendment, when it was rejected.

Mr. Dille moved to amend the amendment of Mr. Soper by inserting "three," and the question being put Mr. Dille's amendment was rejected; and the question recurring upon the amendment of Mr. Soper, it was decided in the affirmative.

So it was decided to fill the blank by inserting the word "two."

Mr. Van Winkle, Chairman of the Committee on County Organization, submitted the following Report; the reading being dispensed with, it was ordered to lie on the table and be printed :

*Report of the Committee on County Organization, submitted December 18th, 1861.*

The Committee on County Organization respectfully submit the following provisions and recommend their adoption as part of the Constitution.

By order of the Committee,

P. G. VAN WINKLE, *Chairman.*

1. Every County shall be divided into townships having an area of not less than thirty square miles, lying compactly, and containing not less than four hundred white inhabitants. Each township shall be designated "the Township of \_\_\_\_\_ in the County of \_\_\_\_\_," by which name it may sue and be sued.

2. The voters of each Township, assembled in stated or special township meeting, shall transact all such business relating exclusively to their township as herein, or may be by law, required or authorized. They shall annually on the first Thursday of April for every six hundred white inhabitants, elect one Supervisor, one

Clerk of the Township, one Surveyor of Roads for each precinct in their township, one Overseer of the Poor, and such other township officers as may be directed by law. They shall also biennially elect one Justice of the Peace; and if the white population of their township exceeds one thousand in number, an additional Justice, and as many Constables as Justices; but the same person shall not be elected Constable for more than two consecutive full terms. The Supervisor, or in his absence a voter chosen by those present, shall preside at all township meetings and elections, and the Clerk shall act as clerk thereof.

3. The Supervisors chosen in the townships of each county shall constitute a Board, to be known as "the Supervisors of the county of \_\_\_\_\_," by which name they may sue and be sued and make and use a common seal, and enact ordinances and by-laws. They shall transact the business of their county in legislative form, for which purpose they shall meet statedly at least four times in each year at the court house of their county, and may hold special and adjourned meetings. At their first meeting after the annual township election, and whenever a vacancy may occur they shall elect one of their number President of the Board, and appoint a Clerk of the County whose compensation they shall fix by ordinance and pay from the County Treasury, who shall keep a journal of their proceedings and transact such other business pertaining to his office as may be by them or by law required.

4. The Board of Supervisors of each county, a majority of whom shall be a quorum, under such general regulations as may be prescribed by law, have the superintendence and administration of the internal affairs and fiscal concerns of their county, including the establishment and regulation of roads, public buildings, ferries and wills, the granting of ordinary and other licenses, and the laying, collecting and disbursement of the county levies; but all writs of AD QUAD DAMNUM shall issue from the Circuit Courts. They shall from time to time appoint the places for holding elections in the several townships of their county, and shall be the judges of election, qualification and return of their own members and of all county and township officers.

5. The voters of every county shall on the day appointed for electing members of the Legislature, whenever it may be necessary, elect one Sheriff, one Prosecuting Attorney, one Surveyor of Lands, one Recorder of Deeds and Wills, one or more Assessors, one Superintendent of Schools, and such other county officers as the Legislature may from time to time direct or authorise, the duties of all of

whom shall be prescribed and defined by general laws. All the said county officers shall hold their offices for two years from the first day of October next succeeding their election, except the Sheriff, whose term of office shall be three years. The same person shall not be elected Sheriff for two consecutive full terms, nor shall the Deputy of any sheriff be elected his successor; but the retiring Sheriff shall finish all business remaining in his hands at the expiration of his term, for which purpose his commission and official bond shall continue in force. The duties of all the said offices shall be discharged by the incumbents thereof in person or under their personal superintendence.

6. The Legislature shall, at their first session, by general laws, provide for carrying into effect, the foregoing provisions of this Article. They shall also provide for commissioning such of the officers therein mentioned, as they may deem proper, and may require any class of them to give bond with security for the faithful discharge of the duties of their respective offices, and for accounting for and paying over as required by law, all money which may come to their hands by virtue thereof. They shall further provide for the compensation of the said officers by fees, or from the County Treasury: for their removal, in case of misconduct or neglect of duty; for filling vacancies, not herein provided for, and for the appointment, when necessary, of deputies and assistants, whose duties and responsibilities shall be prescribed and defined by general laws. When the compensation of an officer is paid from the County Treasury, the amount shall be fixed by the Board of Supervisors, within limits to be ascertained by law; but no reduction of the compensation of any officer shall take effect during the term for which he was elected.

7. The civil jurisdiction of a Justice of the Peace shall embrace all actions of Assumpsit, Debt, Debtinue, Trespass and Trover, where the defendant resides, or, being a new resident of the State, is found, within his township, or where the cause of action arose therein, and when the value in controversy, exclusive of interest, does not exceed fifty dollars, subject to an appeal to the Circuit Court of the county, but a Justice of any other township of the same county, may issue a summons to the defendant to appear before the Justice of the proper township, which may be served by a Constable of either township. Executions issued by a Justice may be directed to, and executed by the Constable of the township where the judgment is rendered, or in which the property to be levied on is found. In case of a vacancy in the office of Justice or Constable in any township having but one, or of the disability to act of the

incumbent, any other Justice or Constable of the same county may discharge any of the duties of their respective offices within said township.

8. Every Justice of the Peace and Constable shall be a conservator of the Peace throughout his county, and the criminal jurisdiction of the former shall be co-extensive therewith. Criminal and peace warrants may be served by any Constable thereof, under such regulations as may be prescribed by law. Every Justice shall perform the duties of the former office of Coroner within his township, in cases of death by violence or casualty, and may, if required, act as such in any part of his county. The Boards of Supervisors shall designate one or more Constables of their respective counties to serve process and levy executions when the Sheriff thereof is a party defendant in a suit therein, and to perform the other duties of the said former office.

9. No county hereafter erected shall have an area of less than four hundred and fifty square miles, and no county shall be reduced to less than the same area, or its white population to a number less than four thousand, by taking territory therefrom to form a new county. The Board of Supervisors may alter the bounds of a township of their county, or erect new townships therein, with the consent of a majority of the votes of each township interested, assembled in stated township meeting, or in a meeting duly called for the purpose; but the area of no township shall be thereby reduced below the limit mentioned in the first Section of this Article, unless the number of the white population remaining therein shall exceed one thousand.

And pending the consideration of the second Section of the second Report of the Committee on the Legislative Department, as amended, the Convention,

On motion of Mr. Stevenson of Wood, adjourned.

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THURSDAY, DECEMBER 19, 1861.

The Convention met pursuant to adjournment.

Prayer by Rev. J. M. Powell, a member of the Convention, after which the minutes were read and approved.

Mr. Van Winkle submitted a paper providing for the disposal of the forfeited, waste and unappropriated lands of the State, and for creating a School Fund therefrom, which was referred to the Committee on Education.

Mr. Hall of Marion, offered the following resolution, which was unanimously adopted:

WHEREAS, This Convention have adopted a resolution that when it adjourns on the 20th instant, it will do so to meet again on the 7th of January, 1862, therefore

*Resolved*, That the members and officers of the Convention shall not receive any *per diem* or other compensation for any part of the time of such recess.

Mr. Lamb moved to lay on the table, so much of the second report of the Committee on the Legislative Department, as relates to the apportionment in the two branches of the Legislature and the numbers of which those branches are to consist, until after the proposed recess, which motion was adopted.

So the question arose upon the adoption of the 9th Section of said report, when Mr. Lamb moved to pass by the same until the report of the Committee on County Organization, which relates to the same subject, comes up for consideration, which was agreed to.

Mr. Dille moved to pass by, for the present, the whole report, which was disagreed to.

Mr. Soper submitted the following amendment, which he intended to offer to the second Section of said report, which was laid on the table and ordered to be printed:

"Insert after the word "years," in the 8th line, the words "and after the first election, the Senators of each district shall be divided by lot into two classes; the first class shall hold office for one year, and the second class for two years, so that one-half thereof shall be chosen annually thereafter."

The 10th Section was read, when

Mr. Brown of Kanawha, moved its adoption.

Mr. Lamb moved to strike out the 98th and 99th lines, and the words "and in such case," in the 100th line, and insert, "if additional territory be admitted into, and become a part of this State."

Mr. Paxton moved to amend the amendment by striking out, in the 99th line, the words "with the consent of the Legislature," and insert in their stead, the words "only with the consent of the qualified voters."

And the question being put upon the amendment to the amendment, it was rejected.

The question was then put upon the amendment of Mr. Lamb, and it was rejected.

Mr. Hervey moved to amend the said Section, by inserting after the word "thereof," in the 99th line, the words "and of the Congress of the United States," which was lost.

The question then recurring on the adoption of the 10th Section, it was put and decided in the affirmative.

Twelve and a half o'clock having arrived, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled, and in the absence of the President, On motion of Mr. Lamb, Mr. Soper was called to the chair.

And on motion of Mr. Lamb, the word "votes," in the 11th Section, was corrected so as to read "voters;" and on his motion, the 11th Section was adopted.

Mr. Lamb asked that the 12th Section be considered by paragraphs, which was assented to.

The first Paragraph was then read, when

Mr. Caldwell offered the following amendment thereto:

Strike out all after the word "who," in the 114th line, to the word "chosen," in the 116th line, and insert, "shall not have resided within the Senatorial District for which he was chosen two years next preceding his election."

Mr. Stevenson of Wood, moved to amend the amendment, by inserting "one year," instead of "two years," which was agreed to,

The first Paragraph of the 12th Section was then adopted.

After which the 2nd Paragraph was read, when

Mr. Van Winkle moved to strike out the words "any minister or priest, of a religious denomination; any salaried officer of a banking corporation or company."

Mr. Stuart of Doddridge, asked for a division of the question, whereupon Mr. Brumfield moved to adjourn, which was disagreed to.

The question was then put upon the adoption of the motion to strike out the words "minister or priest of a religious denomination," when the yeas and nays were demanded, which demand being sustained, the motion was adopted—yeas 21, nays 17.

And on motion of Mr. Hervey, the vote was recorded as follows:

YEAS—Messrs Brown of Preston, Brooks, Battelle, Chapman, Dolly, Hansley, Haymond, Hervey, Hagar, Irvine, Lamb, Mahon, Parsons, Powell, Parker, Paxton Pomeroy, Stevenson of Wood, Stuart of Doddridge, Taylor, Van Winkle—21.

NAYS—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Caldwell, Carskadon, Dering, Dille, E. B. Hall, Harrison, Hubbs, Montague, O'Brien, Sinsel, Sheets, Soper, Warder, Wilson—17.

So it was decided to strike out the words "minister or priest of a religious denomination."

And pending the consideration of the motion to strike out the words "any salaried officer of a banking corporation or company,"

The Convention on motion of Mr. Dering, adjourned.

FRIDAY, DECEMBER 20, 1861.

The Convention met pursuant to adjournment, and after prayer by the Rev. James G. West, a member of the House of Delegates, the minutes of yesterday were read and approved.

Mr. Stevenson of Wood, offered the following resolution :

*Resolved*, That during the session of this Convention the compensation allowed Doorkeepers for their services shall be two dollars each per day.

Mr. Van Winkle moved to strike out in the resolution the word "two," and insert "three;" the question being put on the amendment, it was rejected.

And the question recurring upon the adoption of the resolution, it was decided in the affirmative.

Mr. Brown of Kanawha, from the Committee on the Judiciary Department, submitted the following report from that Committee, which, on his motion, was laid on the table and ordered to be printed :

*Report of the Committee on the Judiciary Department.*

The Committee on the Judiciary Department, having had the matter, referred to them, under consideration, beg leave to make the following report:

1. There shall be a Supreme Court of Appeals and Circuit Courts. The jurisdiction of these Courts, and of the Judges thereof, except so far as the same is conferred by this Constitution, shall be prescribed by law.

2. The State shall be divided into nine Circuits, as follows:

1. The counties of Hancock, Brooke, Ohio and Marshall shall constitute the first circuit.

2. The counties of Monongalia, Preston, Tucker and Taylor shall constitute the second circuit.

3. The counties of Marion, Harrison and Barbour shall constitute the third circuit.

4. The counties of Wetzel, Tyler, Pleasants, Ritchie, Doddridge and Gilmer shall constitute the fourth circuit.

5. The counties of Randolph, Upshur, Lewis, Braxton, Webster and Nicholas shall constitute the fifth circuit.

6. The counties of Wood, Wirt, Calhoun, Roane, Jackson and Clay shall constitute the sixth circuit.

7. The counties of Kanawha, Mason, Putnam and Fayette shall constitute the seventh circuit.

8. The counties of Cabell, Wayne, Boone, Logan, Wyoming and Raleigh shall constitute the eighth circuit.

9. The counties of Pocahontas, Greenbrier, Monroe, Mercer and McDowell shall constitute the ninth circuit.

10. And in the event that the counties of Pendleton, Hardy, Hampshire and Morgan become a part of the State, then they shall constitute another circuit, to be called the tenth circuit.

11. And in the event that the counties of Frederick, Berkley and Jefferson become a part of the State, then they shall constitute another circuit, to be called the eleventh circuit.

8. The Legislature may, from time to time, re-arrange the said circuits; and after the expiration of five years from the time when this Constitution shall go into operation and thereafter, at periods of ten years, may increase or diminish the number of circuits or the number of Courts in a year, as necessity may require.

#### CIRCUIT COURTS.

4. For each Circuit a Judge shall be elected by the voters thereof, who shall hold his office for the term of eight years, unless sooner removed in the manner prescribed by this Constitution. He shall, at the time of his election, be, at least, thirty-five years of age. During his continuance in office, he shall reside in the Circuit of which he is Judge.

5. A Circuit Court shall be held at least four times a year, unless otherwise provided by law, made in pursuance of Section 3, by the Judge of each Circuit, in every county wherein a Circuit Court is now, or may hereafter be, established. But the Judges may be required or authorized to hold the Courts of their respective Circuits alternately, and a Judge of one Circuit to hold a Court in any other Circuit.

#### SUPREME COURT OF APPEALS.

6. The Supreme Court of Appeals shall consist of three Judges, any two of whom shall be a quorum. They shall be elected by the voters of the State, and shall, at the time of their election, be at least thirty-five years of age. They shall hold their offices for the term of twelve years, unless sooner removed in the manner prescribed by this Constitution.

7. The Supreme Court of Appeals shall have appellate jurisdiction only, except in cases of *habeas corpus*, *mandamus* and *prohibition*. It shall have no jurisdiction in civil cases when the matter in controversy, exclusive of costs, is less in value or amount than two hundred dollars, except in controversies concerning the title or boundaries of land, the probate of will, the apportionment or qualification of a personal representative, guardian, committee, or curator; or, concerning a mill, road, way, ferry, or landing, or the

right of a corporation or a county to levy tolls or taxes; and except in cases of *habeas corpus*, *mandamus* and *prohibition* and cases involving freedom, or the constitutionality of a law.

8. When a judgment or decree is reversed or affirmed by the Supreme Court of Appeals, every point made and distinctly stated in writing in the cause and fairly arising upon the record of the case, shall be considered and decided, and the reasons therefor shall be stated in writing and preserved with the records of the case.

9. Special Courts of Appeals, to consist of three Judges, may be formed of the Judges of the Supreme Court of Appeals, and of the Circuit Courts, or any of them, to try any case or cases, which may come before the Supreme Court of Appeals, in respect to which any of the Judges of said Court may be so situated as to make it improper for him to sit on the hearing thereof.

10. Judges shall be commissioned by the Governor, and shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office. The salary of a Judge of the Supreme Court of Appeals, shall not be less than two thousand and five hundred dollars, and that of Judge of a Circuit Court, not less than two thousand dollars, per annum, and each shall receive a reasonable allowance for necessary travel.

11. No Judge, during his term of service, shall hold any other office, appointment, or public trust, and the acceptance thereof shall vacate his judicial office; nor shall he, during such term, be eligible to any political office.

12. No election of Judge shall be held within thirty days of the time of holding elections of President and Vice President of the United States, or of Governor, or Lieutenant-Governor, or of Attorney General, or of members of Congress, or of the Legislature.

13. Judges may be removed from office, by a concurrent vote of both Houses of the Legislature; but a majority of all the members elected to each House, must concur in such vote; and the cause of removal shall be entered on the journal of each House. The Judge against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either House of the Legislature shall act thereon.

14. The officers of the Supreme Court of Appeals, shall be appointed by said Court, or by the Judges thereof in vacation. Their duties, compensation, and tenure of office, shall be prescribed by law.

15. The voters of each county, in which a Circuit Court is held,

shall elect a Clerk of said Court, and an Attorney for the State. The term of office of the Clerk shall be eight years, and that of the Attorney for the State, four years. The duties and compensation of these Officers, and the mode of removing them from office, shall be prescribed by law; and when a vacancy shall occur in said offices, the Judge of the Court held in the county where it occurs, shall appoint a Clerk, or Attorney for the State, (as the case may be) *pro tempore*, who shall discharge the duties of the office until the vacancy is filled. In any case, or matter arising, in respect to which, either the said Clerk, or Attorney for the State, shall be so situated as to make it improper for him to act as such, the said Court shall appoint a suitable person to act in his place.

16. At every election of a Governor, an Attorney General shall be elected by the voters of the State for the term of four years. He shall be commissioned by the Governor, shall perform such duties, and receive such compensation as may be prescribed by law, and be removable in the same manner prescribed for the removal of Judges.

17. Judges, and all other Officers whether elected or appointed, shall continue to discharge the duties of their respective offices after their terms of office have expired, until their successors are qualified.

18. Justices of the Peace shall only have jurisdiction of actions of debt, debtinue and trover, and then only where the amount sued for does not exceed fifty dollars, exclusive of interests and costs. They shall be conservators of the peace in their respective counties, have authority to take relinquishments of dower, acknowledgments of deeds and other writings, administer oaths, and discharge all other duties appertaining to their office.

JAMES H. BROWN, *Chairman.*

The President stated the question to be on the amendment of Mr. Van Winkle to strike out the words "any salaried officer of a banking corporation or company," and the amendment was rejected.

Mr. Brown of Preston, moved to amend the said Paragraph further, by striking out the words "or any Attorney for the State," and the motion was agreed to.

And on motion of Mr. Lamb, the second Paragraph of said 12th Section, as amended, was adopted.

And on motion of Mr. Van Winkle, the Convention adjourned to to meet on the 7th day of January, 1862, at 10 o'clock, A. M.

TUESDAY, JANUARY 7, 1862.

The Convention assembled pursuant to adjournment, and in the absence of the President, Mr. Lamb was called to the Chair.

The session was opened with prayer by the Rev. J. S. Pomeroy, a member of the Convention, after which the minutes of the last day were read and approved.

At the suggestion of Mr. Van Winkle, the following corrections were made in the printed copies of the Journal:

On the 43<sup>d</sup> page, after the word "State," in the 7th line, insert "but a majority of the votes cast in the counties of Pendleton, Hardy, Hampshire, and Morgan be in favor of forming part of the said New State."

On the 68th page, in the 3<sup>d</sup> line from the bottom, strike out "apportionment," and insert "appointment."

On the 70th page, in the 8th line from the bottom, strike out the word "rejected," and insert "adopted."

Mr. Van Winkle presented a petition of 72 citizens of Calhoun County, appointing and recommending Job Robinson, Esq., to a seat in this Convention, stating that, on account of the Rebellion raging in their midst, and the disloyalty of the officers of the County, no election could be held, or was held, on the 4th Thursday in October last, and that they, the petitioners, comprise nearly all the loyal voters of said county.

And, on motion of Mr. Van Winkle, Job Robinson was admitted to a seat in this Convention, from the County of Calhoun.

Mr. Robinson appeared and took the oath embraced in the Ordinance for the reorganization of the State Government.

Mr. Stuart, of Doddridge, was called to the Chair, when

Mr. Lamb stated that when the Convention adjourned on the 20th of December the question was upon the adoption of the 3<sup>d</sup> clause of the 12th Section of the Report of the Committee on the Legislative Department.

Mr. Lamb moved to amend the same by inserting at the end of the 128th line, the words, "according to law," which was agreed to.

And, on motion of Mr. Lamb, the said Clause, as amended, was adopted.

On motion of Mr. Stevenson, of Wood, the 4th Clause of said Section was adopted.

The 13th Section was read, when

Mr. Soper moved to amend by striking out the words "after the adoption of this Constitution," in 131st and 132d lines; and the question being upon the amendment, it was rejected.

And, on motion of Mr. Lamb, the 14th Section was adopted.

The 14th Section was read, when

Mr. Lamb moved the adoption of the 1st Clause, which was agreed to.

The question then being upon the adoption of the 2d Clause,

Mr. Brown, of Preston, moved to strike out, in the 140th line, "first Monday of December," which was agreed to.

Mr. Sinsel moved to insert in the blank the words "first Tuesday of January."

Mr. Stevenson, of Wood, moved to amend the amendment by inserting the words, "third Tuesday in January;" and the question being upon the amendment to the amendment, it was adopted.

And on motion of Mr. Stevenson, of Wood, the 2d Clause, as amended, was adopted.

And on motion of Mr. Lamb the 15th Section was adopted.

Mr. Lamb moved the adoption of the 16th Section, when

Mr. Van Winkle moved to strike out the "City of Wheeling," and insert "the town of Parkersburg."

Mr. Brown, of Kanawha, asked for a division of the question, and the question being upon striking out, it was disagreed to.

And, on motion of Mr. Lamb, the 16th Section was adopted.

On motion of Mr. Stevenson, of Wood, the 17th Section was adopted.

The 18th Section was read, when

Mr. Brown, of Preston, offered the following substitute:

"No session of the Legislature, after the first, shall continue longer than thirty days, without the concurrence of three-fifths of the members elected to each Branch; and such concurrence shall in no case extend the session for a longer period than fifteen days."

And the question being put upon the substitute, it was lost.

Mr. Soper offered the following amendment, to be inserted at the end of the 156th line: "who may extend it not exceeding thirty days."

The hour of 12½ o'clock having arrived the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

The amendment of Mr. Soper to the 18th Section was rejected; and on motion of Mr. Lamb the Section was adopted.

And on motion of Mr. Lamb the 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, and 26th Sections were respectively adopted.

Mr. Stevenson of Wood, moved the adoption of the 27th Section, when—

Mr. Soper offered the following amendment, and asked for a division of it: Insert after the word "compensation," in 195th line, "not exceeding three dollars a day during the session of the Legislature, and also ten cents for every mile they shall travel in going to and returning from their place of meeting on the most direct route. The President of the Senate and the Speaker of the House of Delegates shall respectively receive an additional compensation of one dollar per day."

The question was put upon the 1st Clause, and it was adopted.

Mr. Van Winkle moved to amend the 2nd Clause by striking out "one dollar" and insert "two dollars," which was agreed to.

The amendment of Mr. Soper was then adopted, after which the whole Section, as amended, was adopted.

The 28th Section was read, when—

Mr. Brown of Kanawha, moved to amend the same by striking out all after the word "resolutions," and insert "shall originate in the House of Delegates, to be approved, amended or rejected by the Senate."

And the question being put upon the amendment, it was rejected.

On motion of Mr. Lamb the 28th and 29th Sections were respectively adopted.

The 30th Section was then read, and—

Mr. Irvine moved to strike out the whole of the Section.

Mr. Van Winkle moved to substitute the following for the 30th Section, which was disagreed to:

"No amendment having a different object shall be attached to a pending Bill after its second reading."

The question then recurred upon the amendment of Mr. Irvine, to strike out the entire Section, when the President stated that the object sought by Mr. Irvine would be attained by voting against the adoption of the Section; and the question being put upon the adoption of the 30th Section, it was agreed to.

The 31st Section was read, when—

Mr. Van Winkle moved to amend the same by inserting after the word "bill" in the 206th line, the words "appropriating or requiring the expenditure of money," which was rejected.

Mr. Van Winkle moved to amend the said Section by striking out all after the word "Journal," but the amendment was lost.

And on motion of Mr. Paxton the 31st Section was adopted, when—

On motion of Mr. Stevenson of Wood, the Convention adjourned.

WEDNESDAY, JANUARY 8, 1862.

The Convention met pursuant to adjournment, and was called to order by the President, after which Rev. R. L. Brooks, a member of the Convention, opened the session with prayer.

The proceedings of yesterday were read and approved.

Mr. Stevenson of Wood, submitted the following resolution, which was ordered to lie the table.

*Resolved*, That the Sergeant-at-Arms be authorized to give up the rooms at present used by the Committees of the Convention.

Mr. Benjamin L. Stephenson, delegate elect to this Convention from the county of Clay, appeared and took the oath embraced in the ordinance for the re-organization of the State Government, and took his seat in the Convention as a delegate for said county.

The report of the Committee on the Legislative Department was taken up for further consideration.

Mr. Lamb moved the adoption of the 32nd Section.

Mr. Soper moved to amend the same by striking out all from the word "publicly," to the word "session," inclusive, which was agreed to.

Mr. Hervey moved further to amend the same by inserting after the word "sign" in the 210th line, the words "prior to its adjournment," which was adopted.

And the question recurring upon the adoption of the 32nd Section, as amended, it was decided in the affirmative.

The 33rd Section was read.

Mr. Brown of Kanawha, moved to amend by striking out all after the word "question" in the 216th line, and insert "if called for by one-fifth of those present, shall be entered on the journal," which amendment was agreed to, after which the Section, as amended, was adopted.

On motion of Mr. Lamb the 35th and 36th Sections were passed by for the present.

Mr. Lamb then offered the following substitute for the 11th and 35th Sections of the second report of the Committee on the Legislative Department, which was ordered to lie on the table and be printed :

"The Legislature may provide by law for the registration of voters in the several counties, cities, towns or townships in which they reside, and prescribe the nature of the evidence to be required in case of dispute as to the right of any person to vote. They may pass such laws as shall be necessary or proper to prevent intimidation, disorder, violence or fraud in elections, and may regulate the

manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not provided for in this Constitution. They may provide by law, subject to the provisions of this Constitution, for the election, appointment and removal of public officers and agents; and prescribe their qualifications, oaths, terms of office, official bonds, and commissions, powers, duties and compensation. But the Legislature shall exercise no appointing power, except in cases where such power is conferred on them by this Constitution, and in the election of United States Senators; and they shall create no office, the term of which shall be longer than four years; and no person shall be elected or appointed to any office within any district, county or township, who shall not have been an inhabitant thereof for one year preceding his election or appointment."

The 36th Section was read, when—

Mr. Brown of Preston, moved to amend the same by striking out all after the word "office" in the 231st line.

Mr. Hervey moved to amend the amendment by inserting after the word "abolished" in the 231st line, the words "when the salary and compensation shall cease."

And the question being put upon the amendment to the amendment, it was rejected.

The question then recurred upon the amendment, and it was adopted, after which the 36th Section, as amended, was adopted.

Upon the reading of the 37th Section,

Mr. Sinsel moved to amend the same by striking out the word "impeached," in the 232d line, and insert the words "removed from office by indictment and conviction thereof," and to strike out all after "misdemeanor," in the 234th line."

The hour of 12½ o'clock having arrived, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

Mr. Brown, of Kanawha, presented the credentials of Benjamin H. Smith, consisting of a petition of a number of the citizens of Logan county, stating that no election could be held in that county at the proper time, and requesting that Mr. Smith be admitted to a seat in this Convention for Logan county.

And, on motion of Mr. Brown, of Kanawha, Benjamin H. Smith was admitted to a seat in the Convention as a Delegate for the county of Logan.

The amendment of Mr. Simmel to the 37th section, and which was pending when the Convention took a recess, was rejected.

On motion of Mr. Stuart, of Doddridge, the word "incompetency" was inserted in the 233d line, after the word "corruption," after which the 37th section, as amended, was adopted.

The 38th Section being read,

Mr. Soper moved to strike out "Joint Stock," in the 247th line, but afterwards withdrew it.

Mr. Hervey moved to pass by the Section for the present, and the question being put, it was decided in the negative.

Mr. Soper moved to amend the said Section by inserting, after the word "stock," the words "or other," which was disagreed to.

"On motion of Mr. Soper, the words "and no private act of any kind" were stricken out of the 248th and 249th lines.

The 38th Section was then adopted, as amended,

The 39th Section was read and adopted.

On motion of Mr. Lamb, the 40th Section was adopted.

On motion of Mr. Pomeroy, the 41st Section was adopted.

Mr. Brown, of Kanawha, moved to strike out the 42d Section; and upon this question the yeas and nays were demanded, which demand being sustained, the motion was rejected—yeas, 14; nays 23.

And, on motion of Mr. Soper, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Brooks, Brumfield, Chapman, Carskadon, Dering, Dolly, Harrison, Irvine, Ruffner, Simmons, Stevenson of Clay, Taylor—14

NAYS—Brown of Preston, Caldwell, Hansley, Haymond, Hubbs, Hervey, Lamb, Montague, Mahon, O'Brien, Parsons, Paxton, Pomeroy, Robinson, Sinsal, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Stuart of Doddridge, Trainer, Warder, Wilson—23.

The 42d Section was then adopted.

And, on motion of Mr. Stewart, of Wirt, the Convention adjourned.

## THURSDAY, JANUARY 9, 1862.

The Convention met at the usual hour, and was called to order by the President.

Prayer by Rev. Thomas H. Trainer, member of the Convention.

The journal was read and approved.

Mr. Van Winkle moved to take up the resolution offered yesterday by Mr. Stevenson of Wood, authorizing the Sergeant-at-Arms to give up the rooms at present used by the Committees of the Convention.

Mr. Hervey moved to add to it the words "at the end of the current month for which they were rented," which being accepted by the author of the resolution, it was adopted.

The report on the Legislative Department was taken up for further consideration.

And the question being upon the adoption of the 43rd Section, Mr. Stevenson of Wood, moved to strike out in the 282nd line, the words "a majority," and insert the word "two-thirds," which amendment was rejected.

Mr. Stuart of Doddridge, proposed to amend the same by striking out the words "declaring distinctly the powers and objects of such Convention and."

Mr. Soper moved to amend the amendment by striking out in the 284th line, the word "distinctly," and the words "powers and."

And pending the consideration of the amendment to the amendment, the Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention met at the usual hour.

Mr. Soper withdrew his amendment to the amendment of Mr. Stuart of Doddridge, offered this morning.

The question then recurred upon the amendment of Mr. Stuart of Doddridge, when the yeas and nays were demanded, and the demand being sustained, the amendment was adopted.—Yeas 23, nays 10.

And on motion of Mr. Paxton the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brumfield, Chapman, Caldwell, Dering, Dolly, Hansley, Hervey, Irvine, Montague, Mahon, Powell, Pomeroy, Robinson, Ruffner, Stephenson of Clay, Stewart of Wirt, Sheets, Stuart of Doddridge, Taylor, Trainer, Van Winkle, Warder, Wilson—23.

NAYS—Messrs. Brown of Preston, Haymond, Harrison, Hubbs, Lamb, Paxton, Sinsel, Simmons, Stevenson of Wood, Soper—10.

Mr. Lamb submitted the following additional Section to said report which was laid on the table and ordered to be printed:

Any amendment to the Constitution of the State may be "proposed in either branch of the Legislature; and if the same, being read on three several days in each branch, be agreed to, on its third reading, by a majority of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and referred to the Legislature at the first session to be held after the next general election; and shall be published, at least three months before such election, in some newspaper in every county in which a newspaper is printed. And if the proposed amendment be agreed to, during such session, by a majority of the members elected to each branch, it shall be the duty of the Legis-

lature to provide by law for submitting the same to the voters of the State for ratification or rejection. And if a majority of the qualified voters, voting upon the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Constitution of the State.

If two or more amendments be submitted at the same time to the voters of the State, they shall be submitted in such manner that the vote on the ratification or rejection thereof shall be taken on each of the proposed amendments separately.

Mr. Harrison submitted the following additional section to said report, which was laid on the table for the present:

"The Legislature may make laws regulating or prohibiting the sale of intoxicating liquors within the limits of this Commonwealth, or in any of the counties thereof, or in any corporation within the State."

Mr. Caldwell offered the following additional Section, which was laid on the table and ordered to be printed:

The Legislature shall pass no special act conferring corporate powers, other than for banking or for municipal purposes, or when the object cannot be attained under general laws; provided that the power of municipal corporations to tax and incur debts may be restricted by law.

Corporations, other than corporations for banking or municipal purposes, shall be formed under general laws, but all general laws passed pursuant to this section may be altered or amended by the Legislature from time to time.

The property of corporations created under general laws shall be subject to taxation the same as the property of individuals.

The right of way may be granted by general laws to corporations, provided the same shall not be appropriated to the use of any incorporation until full compensation therefor be made in money—the amount of compensation to be ascertained in a Court of Record, in such a manner as shall be prescribed by law.

On motion of Mr. Pomeroy the 2nd Section of the Report of the Committee on the Legislative Department, which was heretofore passed by, was taken up for consideration.

Mr. Van Winkle moved to strike out the word "forty-six" in the 7th line, and insert the word "fifty-four."

Mr. Brown of Kanawha, moved to postpone the consideration of the question for the present.

Pending the consideration of which,

On motion of Mr. Dering, the Convention adjourned.

FRIDAY, JANUARY 10, 1862.

The Convention met pursuant to adjournment, and was called to order by the President.

Prayer by the Rev. James G. West, member of the Legislature.

The Journal was read and approved.

The Second Report of the Committee on the Legislative Department was stated to be the order of the day, and that the question was upon the adoption of the amendment of Mr. Van Winkle, offered yesterday, to strike out "forty-six" and insert "fifty-four."

Mr. Stuart, of Doddridge, offered to amend the amendment by inserting after the word "members," in the 7th line, the words, "and to be so distributed as to give to every county at least one delegate."

Pending the consideration of which, at the usual hour, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

Mr. Paxton, Chairman of the Committee on Taxation and Finance, submitted the following Report, which, on his motion was laid on the table and ordered to be printed.

The Committee on Taxation and Finance respectfully submit the following provisions for incorporation into the Constitution of West Virginia :

1. Taxation shall be equal and uniform throughout the State, and all property, both real and personal shall be taxed in proportion to its value, to be ascertained as directed by law. No species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; but property for educational, literary, scientific, religious or charitable purposes, and public property, may, by law, be exempt from taxation.

2. A Capitation Tax, not less than fifty cents nor more than one dollar, shall be levied upon each white male inhabitant who has attained the age of twenty-one years.

3. The Legislature shall provide for an annual tax, sufficient to defray the estimated expenses of the State for each year; and when the ordinary expenses of any year shall exceed the income, the Legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such year.

4. No money shall be drawn from the Treasury but in pursuance

of appropriations made by law, and an accurate and detailed statement of the receipts and expenditures of the public money shall be published annually.

5. No debt shall be contracted by this State, except to meet casual deficits in the revenue—to redeem a previous liability of the State—to suppress insurrection, repel invasion, or defend the State in time of war.

6. The credit of the State shall not be granted to, or in aid of, any county, city, town, township, corporation or person whatever; nor shall the State ever assume or become responsible for the debts or liabilities of any county, city, town, township, corporation or person, unless incurred in time of war or insurrection, for the benefit of the State.

7. No county, township, city, town or other municipal corporation, by vote of its citizens or otherwise, shall become a stockholder in any joint-stock company, corporation or association whatever; or raise money for, or loan credit to, or aid of, any such company, corporation or association.

8. The Legislature may at any time direct a sale of the stocks owned by the State in banks and other corporations; but the proceeds of such sale shall be applied to the liquidation of the public debt; and hereafter the State shall not become a stockholder in any bank or other association or corporation.

9. An equitable portion of the public debt of the commonwealth of Virginia prior to January 1st, 1861, shall be assumed by this State, and the Legislature shall ascertain the same as soon as may be practicable, and provide for the liquidation thereof, by a Sinking Fund, sufficient to pay the accruing interest and redeem the principal within thirty-four years.

J. W. PAXTON, *Chairman*.

The President stated that the question was upon the adoption of the amendment to the amendment, pending when the hour of recess arrived, to insert after the word "members," in the 2d Section of the Report on the Legislative Department, "and to be so distributed as to give every county at least one delegate;" and upon this question the yeas and nays were demanded, and the demand being sustained, the amendment to the amendment was rejected—yeas 20, nays 23.

And on motion of Mr. Brown, of Preston, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Dering, Dolly, Hansley, Haymond, Harrison, Hubbs, Hervey, Montague, Parsons, Simmons, Stevenson of Clay, Sheets, Soper, Stuart of Doddridge, Taylor, Walker, Wilson—20.

**NAYS**—Messrs. Brown of Preston, Brooks, Chapman, Caldwell, Carskadon, Dale, Hall of Marion, Irvine, Lamb, Mahon, O'Brien, Powell, Parker, Paxton, Pomeroy, Robinson, Ruffner, Sinsel, Stevenson of Wood, Stewart of Wirt, Trainer, Van Winkle, Warder—23

The question then recurred upon the adoption of the amendment of Mr. Van Winkle, to strike out "forty-six" and insert "fifty-four;" and upon this question the yeas and nays were demanded, which being sustained the amendment was rejected—yeas 14, nays 29,

And on motion of Mr. Hervey, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Brown of Kanawha, Carskadon, Dering, Hubbs, Lamb, Mahon, Paxton, Ruffner, Stevenson of Wood, Soper, Stuart of Doddridge, Van Winkle, Walker—14.

**NAYS**—Messrs. Brown of Preston, Brooks, Brumfield, Chapman, Caldwell, Dille, Dolly, Hansley, Hall of Marion, Haymond, Harrison, Hervey, Irvine, Montagne, O'Brien, Parsons, Powell, Parker, Pomeroy, Robinson, Sinsel, Simmons, Stevenson of Clay, Stewart of Wirt, Sheets, Taylor, Trainer, Warder, Willson—29.

And on motion of Mr. Lamb, the first clause of the 2d Section was adopted.

Mr. Van Winkle moved to amend the 2d Clause of said Section by adding, after the word "election," in the 10th line, the words, "except that the terms of those first elected shall commence twenty days after their election," which was agreed to.

Mr. Harrison moved a reconsideration of the vote fixing the 4th Thursday of May as the time for electing members of the Legislature, which was disagreed to.

And, on motion of Mr. Lamb, the balance of said Section, as amended, was adopted.

The 3d Section was then read and adopted.

Upon the reading of the 4th Section,

Mr. Brown, of Kanawha, moved to amend the same by substituting for it so much of his "Minority Report," as is embraced in the 46th and 76th lines inclusive, and the question being put upon the substitute, it was decided in the negative.

The question then recurring upon the 4th Section of said report, it was adopted.

And, on motion of Mr. Stevenson, of Wood, the Convention adjourned.

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## SATURDAY, JANUARY 11, 1862.

The Convention met pursuant to adjournment, and was called to order by the President.

Prayer by the Rev. Gideon Martin, of the M. E. Church.

The Minutes of yesterday were read and approved.

Mr. Hervey submitted the following substitute for the 4th Section of the Report of the Committee on the Legislative Department, which was laid on the table and ordered to be printed.

HERVEY'S SUBSTITUTE FOR 4TH SECTION.

"4. Until the Senatorial Districts shall be differently arranged, after the next census taken by authority of the United States, the counties of Pendleton, Randolph and Pocahontas shall constitute the 1st District; the counties of Preston and Tucker the 2d; Harrison the 3d; Ritchie, Gilmer and Doddridge the 4th; Monongalia the 5th; Marshall the 6th; Marion the 7th; Taylor and Barbour the 8th; Mason and Putnam the 9th; Jackson, Wirt and Calhoun the 10th; Wood and Pleasants the 11th; Wetzel and Tyler the 12th; Lewis and Braxton the 13th; Upshur, Webster and Nicholas the 14th; Roane, Clay and Fayette the 15th; Greenbrier and Raleigh the 16th; Kanawha the 17th; Cabell and Wayne the 18th; Boone, Logan, Wyoming and McDowell the 19th; Mercer and Monroe the 20th; Brooke, Hancock and Ohio county the 21st; the City of Wheeling the 22d.

At the first election under this Constitution, the City of Wheeling shall elect one Senator, and the counties of Brooke, Hancock and Ohio county one Senator, and in this manner for the next three succeeding terms. For the 5th term the City of Wheeling shall elect two Senators, and the counties of Brooke, Hancock and Ohio county, and the City of Wheeling shall elect in the above manner until a reapportionment of this State."

Mr. Paxton offered the following additional Section, to come in between the 4th and 5th Sections:

"The Senators first elected shall be divided by lot into two classes; the first class shall hold office for one year, and the second class for two years, so that one-half thereof shall be chosen annually thereafter.

And the question being upon the adoption of this Section, it was decided in the affirmative.

Mr. Soper moved to amend the 5th Section by striking out all after the word "than," and insert the following "four thousand shall, at each apportionment after the next census, be attached to some contiguous county, to form a delegate district," which was disagreed to.

Mr. Van Winkle offered the following additional Section, to come in before the 5th Section, which, by consent was laid on the table for the present:

"If the first elections of Senators and Delegates are held within

six months after the 4th day of July, in any year, their respective terms of service shall be reckoned from that day; and if held within six months next preceding that day, in any year, their terms shall be reckoned from the 4th day of July next after such election."

The 5th Section was then adopted.

Upon the reading of the 6th Section,

Mr. Ruffner moved to amend the same by inserting, in the 42d line, after the words "United States," the words "and of this State," which was rejected, and the Section adopted.

The hour of 12½ o'clock arriving, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Ruffner presented six petitions, signed by one hundred and fifty-nine citizens of Nicholas county, stating that no election was held in said county in October last for a delegate to this Convention, and praying to be represented here by John R. McCutchen.

On motion of Mr. Ruffner, John R. McCutchen was admitted to a seat in this Convention, as a delegate for the county of Nicholas.

Mr. McCutchen appeared and took the oath embraced in the Ordinance for the reorganization of the State Government.

Mr. Van Winkle moved to amend the 7th Section by inserting, in the 69th line, after the words "two delegates," the words "of whom the county of Wood shall elect one delegate, and the counties of Wood and Pleasants shall together elect one delegate."

Pending the consideration of which,

Mr. Warder moved to reconsider the vote by which the 2d Section was adopted, and the question being upon reconsidering, it was decided in the affirmative.

Mr. Haymond moved to amend the 2d Section, by striking out the word "forty-six," in the 7th line, and insert "fifty-six."

Mr. Lamb moved to amend the amendment by striking out "fifty-six," and inserting "fifty-four."

Mr. Lamb then moved to lay all the motions on the table for the present, which was agreed to.

And, on motion of Mr. Hervey, the Convention adjourned.

MONDAY, JANUARY 13, 1862.

The Convention met at the usual hour, and after prayer by the Rev. Gordon Battelle, member of the Convention, the Minutes were read and approved.

Mr Haymond withdrew his amendment to the 2d Section, to strike out "forty-six" and insert "fifty-six."

Mr. Lamb then moved to amend said Section by striking out "forty-six," and inserting "fifty-four."

Mr. Haymond moved to amend the amendment by substituting the following:

*Resolved*, That the House of Delegates shall consist of fifty-nine members, to be divided among the counties as follows:

Ohio county four delegates; Marshall, Marion, Monongalia, Preston, Harrison, Wood, Jackson, Barbour, Mason, Kanawha, Greenbrier and Monroe counties, two delegates each; and Hancock, Brooke, Wetzel, Taylor, Ritchie, Doddridge, Wirt, Roane, Calhoun, Gilmer, Tucker, Pleasants, Tyler, Lewis, Braxton, Upshur, Randolph, Putnam, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette and Raleigh, one delegate each.

Mr. Lamb moved to lay the amendments on the table, and that the different schemes of apportionment be printed, which was rejected."

Mr. Parker rose to the following question of order: That on Saturday last the Convention voted to reconsider the vote adopting the 2d Section of the Report of the Committee on the Legislative Department; that thereupon Mr. Haymond moved to strike out "forty-six," and insert "fifty-six," in the 7th line; that Mr. Van Winkle had, on a former day, moved to strike out "forty-six," and insert "fifty-four," which motion had been rejected; that, therefore, the motion of Mr. Haymond offered on Saturday, to strike out "forty-six" and insert "fifty-six," and all other motions of like effect, are out of order until the Convention had first voted to reconsider the vote rejecting the said amendment of Mr. Van Winkle.

The President overruled the point of order. Whereupon, Mr. Parker appealed from the decision of the Chair.

Mr. Caldwell moved to lay the appeal on the table, which was decided in the affirmative.

Mr. Harrison, by consent, submitted the following resolution:

*Resolved*, That the subject of House of Delegates, in the 2d

Section, be postponed to Wednesday next, and no proposition then to be considered which shall not be made to-day and printed.

Mr. Lamb moved to strike out the latter clause, which was agreed to.

The resolution was then rejected,

And pending the consideration of the amendment of Mr. Haymond to the amendment of Mr. Lamb, the hour of 12½ o'clock arrived and the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

The question being upon the adoption of the amendment of Mr. Haymond to the amendment of Mr. Lamb, the yeas and nays were demanded, and the call being sustained, the amendment to the amendment was rejected—yeas 9, nays 33.

And on motion of Mr. Brown, of Preston, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Hansley, Haymond, McCutchen, Stephenson of Olay, Soper, Taylor, Walker—9

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Chapman, Carskadon, Dering, Dille, Hall of Marion, Harrison, Hubbs, Hervey, Irvine, Lamb, Lauck, Montague, Mahon, Parsons, Powell, Parker, Paxton, Pomeroy, Robinson, Ruffner, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Trainer, Van Winkle, Warder, Wilson—33.

Mr. Stuart, of Doddridge, offered to amend the amendment of Mr. Lamb, by inserting after the word "members," in the 7th line, the following: "and to be so distributed as to give to each county at least one delegate."

And the question being upon the amendment to the amendment, the yeas and nays were demanded, and the demand being sustained, the motion was decided in the affirmative—yeas 24, nays 20.

And on motion of Mr. Hall, of Marion, the vote was recorded as follows:

YEAS—Messrs. John Hall (President) Brumfield, Dering, Dolly, Hansley, Haymond, Harrison, Hubbs, Hervey, Lauck, Montague, McCutchen, Parsons, Parker, Robinson, Simmons, Stevenson of Olay, Sheets, Soper, Stuart of Doddridge, Taylor, Walker, Warder, Wilson—24.

NAYS—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Battelle, Chapman, Carskadon, Dille, Hall of Marion, Irvine, Lamb, Mahon, Powell, Paxton, Pomeroy, Ruffner, Sinsel, Stevenson of Wood, Stewart of Wirt, Trainer, Van Winkle—20

Mr. Brown, of Kanawha, moved further to amend the amendment of Mr. Lamb, by inserting "fifty-nine," instead of "fifty-four."

Pending the consideration of which, on motion of Mr. Battelle, the Convention adjourned.

TUESDAY, JANUARY 14, 1862.

The Convention met at the usual hour.

Prayer by Rev. Josiah Simmons, member of the Convention.

The minutes were read and approved.

The question was stated by the President to be upon the adoption of the amendment offered by Mr. Brown, of Kanawha, to the amendment of Mr. Lamb to the 2d Section of the Report of the Committee on the Legislative Department.

And the question being upon this amendment to the amendment the yeas and nays were demanded, and being seconded, the motion was decided in the negative—yeas 11, nays 33.

Mr. Hall, of Marion, moved that the vote be recorded, which was done as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Chapman, Hansley, Haymond, McCutchen, Ruffner, Stevenson of Clay, Soper, Taylor, Walker—11.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Dering, Dille, Dolly, Hall of Marion, Harrison, Hubbs, Hervey, Irvine, Lamb, Lauck, Montague, Mahon, O'Brien, Parsons, Parker, Paxton, Pomeroy, Robinson, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Stuart of Doddridge, Trainer, Van Winkle, Warder, Wilson—33.

The hour of 12½ o'clock arriving, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Hervey moved to reconsider the vote yesterday adopting the amendment of Mr. Stuart, of Doddridge, giving to each county at least one delegate, which motion was agreed to.

And the question again recurring upon the amendment of Mr. Stuart, of Doddridge, to the amendment of Mr. Lamb, the yeas and nays were demanded, which being sustained, the motion was lost—yeas 21, nays 24.

And, on motion of Mr. Brown, of Preston, the vote was recorded as follows:

YEAS.—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Dering, Dolly, Hansley, Haymond, Harrison, Hubbs, Lauck, Montague, McCutchen, Robinson, Simmons, Stevenson of Clay, Stuart of Doddridge, Soper, Taylor, Walker, Warder, Wilson—21.

NAYS—Messrs. Brown of Preston, Brooks, Battelle, Chapman, Caldwell, Dille, Hall of Marion, Hervey, Irvine, Lamb, Mahon, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Ruffner, Sinsel, Stevenson of Wood, Stewart of Wirt, Sheets, Trainer, Van Winkle—24.

And, on motion of Mr. Van Winkle, the Convention adjourned.

WEDNESDAY, JANUARY 15, 1862.

The Convention met at the usual hour.

Prayer by the Rev. J. S. Pomeroy, member of the Convention.

The Minutes were read and approved.

Mr. Van Winkle presented a scheme of apportionment for the House of Delegates.

Mr. Stevenson, of Wood, moved to lay the same on the table and print.

Mr. Battelle moved to amend the motion by referring the same, with the subject of apportionment in the House of Delegates, to the Committee on the Legislative Department, with instructions to report thereon as soon as possible, and the question being upon the amendment, it was agreed to, and the motion, as amended, was adopted.

Mr. Benjamin H. Smith, Delegate elect to this Convention for the county of Logan, appeared and took the oath embraced in the ordinance for the reorganization of the State Government, and took his seat in the Convention.

Mr. Brown, of Kanawha, moved that the whole subject of apportionment, in both branches of the Legislature be recommitted to the Committee on the Legislative Department, which motion was decided in the affirmative.

The question then recurred on the adoption of the 9th Section of the Report of the Committee on the Legislative Department, and

Mr. Lamb moved its adoption.

Mr. Hervey moved to amend the same by striking out the words "four hundred and fifty," in the 186th line, and inserting "three hundred and fifty," which was disagreed to.

Mr. Stevenson moved to strike out the word "fifty," in the 86th and the 87th lines, which motion was rejected.

Mr. Hall, of Marion, moved to strike out the first clause of the 9th Section, which was decided in the negative; after which, the Section was adopted.

The question then recurred upon the 34th Section of said Report, when

Mr. Lamb moved to strike out the whole of the Section, which was agreed to.

The 35th Section was read, when

Mr. Lamb moved to strike out the words "officers of the State," in the 224th line, and insert "public officers and agents," which was agreed to.

Mr. Lamb moved further to amend said Section by inserting after the word "appointed" the words "or elected," which was agreed to.

Mr. Lamb moved further to amend the same by adding at the end of the Section the words, "They shall provide by law for the removal of officers, by impeachment or otherwise," which was adopted.

And the hour of 12½ o'clock having arrived, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

On motion of Mr. Van Winkle, the 35th Section of said Report was passed by for the present.

Mr. Lamb called up the additional Section to said Report, submitted by him on the 9th day of this month, and moved its adoption as part of said Report.

Mr. Stevenson, of Wood, moved to amend the same by inserting, after the word "State," in the 18th line, the words, "But no amendment or amendments shall be submitted to the people more than once in five years," and the question being upon this amendment, it was decided in the negative.

Mr. Harrison moved to amend the said additional Section by inserting, in the 2d line, after the word "Legislature," the words "in the year 1865, and at periods not oftener than once in five years thereafter, which amendment was rejected.

The question then recurred upon the adoption of the Section, upon which the yeas and nays were demanded, and the demand being sustained, the Section was adopted—yeas 25, nays 16.

And, on motion of Mr. Hall, of Marion, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Battelle, Chapman, Caldwell, Dolly, Harrison, Hervey, Irvine, Lamb, Lauck, Powell, Paxton, Pomeroy, Robinson, Ruffner, Sinsel, Simmons, Stewart of Wirt, Sheets, Soper, Smith, Taylor, Van Winkle, Walker, Warder—25.

**NAYS**—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Dering, Dille, Hansley, Hall of Marion, Haymond, Hubbs, Hagar, McCutchen, Parsons, Stevenson of Wood, Stephenson of Clay, Stuart of Doddridge, Trainer—16.

Mr. Brown, of Kanawha, moved that Mr. Smith be added to the Committee on the Legislative Department, which was agreed to.

Mr. Lamb moved also to add to said Committee Mr. Pomeroy.

And, on motion of Mr. Caldwell, the Convention adjourned.

## THURSDAY, JANUARY 16, 1862.

The Convention met at the usual hour.

Prayer by Rev. Robert Hagar, member of the Convention.

The minutes of yesterday were read, corrected and approved.

The President stated that the question was upon the motion of Mr. Lamb, made last night, to add Mr. Pomeroy to the Committee on the Legislative Department.

Mr. Lamb withdrew said motion.

Mr. Pomeroy moved that hereafter, until otherwise ordered, the Convention shall meet at nine o'clock, A. M.

Mr. Van Winkle moved to amend the said resolution by substituting the following:

*Resolved*, That on and after Monday next, until otherwise ordered, the Convention will meet at half-past nine o'clock, A. M.

And the question being upon the substitute, it was decided in the affirmative.

Mr. Lamb moved the adoption of the 35th Section of the Report on the Legislative Department,

Mr. Van Winkle moved further to amend the said Section by striking out the word "law," in the 223d line, and also in the amendment heretofore adopted, and insert in both blanks the words "general laws," which amendment was adopted.

And thereupon the 35th Section, as amended, was adopted.

Mr. Pomeroy then moved to take up the Report of the Committee on the Executive Department.

Mr. Van Winkle moved to take up the additional Section to the Report of the Committee on the Legislative Department, heretofore submitted by Mr. Caldwell, which was agreed to.

And the question then being upon the adoption of said additional Section,

Mr. Soper moved to amend the same by striking out, in the 2d line, the words "for banking or."

Pending the consideration of which, the hour of 12½ o'clock arrived, and the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

Mr. Van Winkle offered the following substitute for the additional Section of Mr. Caldwell and the amendment proposed thereto by Mr. Soper, which was, on motion of Mr. Irvine,

laid on the table and ordered to be printed, and the subject was passed by for the present:

"The Legislature shall pass general laws, whereby any number of persons, associated for mining, manufacturing, banking, insuring or other purpose useful to the public, excepting the construction of internal improvement, may become a corporation, on complying with the terms and condition thereby prescribed; and no special act incorporating, or granting peculiar privileges to, any joint stock or other company or association, not having in view the construction of some work of internal improvement shall be passed. But no company or association shall issue bills to circulate as money until it has given security for the redemption thereof in such manner as shall be provided by laws of this State or of the United States."

Mr. Powell offered the following additional Section to the Report of the Committee on the Legislative Department:

"The Legislature may make laws regulating or prohibiting the sale of intoxicating liquors within the limits of this State, or in any of the counties thereof, or in any corporation within the State, when such Legislation is demanded by the citizens thereof, and the Legislature may submit such laws to the people of the State, county or corporation, as the case may be, for their ratification or rejection, at the ballot box."

Mr. Stuart, of Doddridge, moved to amend the same by striking out all after the word "State," in the 2d line, which was agreed to.

Mr. Hervey moved further to amend the same by adding the following: "If in any county a majority of the votes cast at any election in such county so desire, the Legislature shall prohibit the sale of intoxicating liquors therein."

Mr. Brown, of Kanawha, offered the following substitute for the said Section and amendment:

"No contract for the sale of ardent spirits shall be enforced in any Court in this State," and the question being upon the substitute, it was rejected; after which, the amendment of Mr. Hervey was rejected.

The question then recurring on the adoption of the Section, as amended, the yeas and nays were demanded, which demand being sustained, the vote was decided in the affirmative—yeas 27, nays 16.

And, on motion of Mr. Pomeroy, the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brooks, Battelle, Chapman, Caldwell, Dering, Dille, Hansley, Hall of Marion, Harrison, Hubbs, Hagar, O'Brien, Parsons, Powell, Parker, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Taylor, Trainer, Walker, Warder, Wilson—27.

NAYS—Messrs. Brown of Kanawha, Brumfield, Haymond, Hervey, Irvine, Lamb, Lauck, Montague, McCutchen, Robinson, Ruffner, Stephenson of Clay, Sheets, Soper, Smith, Van Winkle—16.

And, on motion of Mr. Simmons, the Convention adjourned.

## FRIDAY, JANUARY 17, 1862.

The Convention met at the usual hour.

Prayer by Rev. Mr. Powell, member of the Convention.

The Minutes were read and approved.

On motion of Mr. Pomeroy, the report of the Committee on County Organization was taken up for consideration.

The 1st Section was read.

Mr. Van Winkle moved the adoption of the first line, to the word "having."

Mr. Brown, of Preston moved to strike out the word "townships," in the first line, and insert "District."

Mr. Brown, of Kanawha moved to amend the amendment by inserting "Parishes" in the place of "Districts."

And the question being upon the amendment to the amendment, it was decided in the negative; after which the amendment of Mr. Brown, of Preston, was rejected.

The first line of the 1st Section was then adopted.

Mr. Soper moved the adoption of the balance of the Section.

Mr. Lamb moved to strike out all from the word "having" to the word "miles," inclusive.

Mr. Hervey moved to amend the amendment by striking out "less," in the 2d line, and insert "more;" and strike out the words "and containing," in the 2d and 3d lines, and insert "if it shall contain," which he afterwards withdrew.

Mr. Lamb's amendment was then adopted.

Mr. Ruffner then moved to strike out the words "lying compactly and," which was agreed to.

Mr. Brown, of Preston, offered the following substitute for the first clause of the first Section.

"Every county shall be divided into not less than three nor more than eight townships, laid off as compactly as possible, having reference to natural boundaries, and containing, as nearly as possible, an equal number of inhabitants."

The hour of 12½ o'clock having arrived, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Mahon moved to amend the substitute by inserting "ten townships," instead of "eight," which was agreed to.

Mr. Stevenson, of Clay, moved to amend further by inserting, in lieu of the word "possible," after the words "compactly as," the word "practicable," which was agreed to.

Mr. Van Winkle moved further to amend said substitute by adding, at the end thereof, the words "but not less than four hundred," which was adopted.

The question then being upon the adoption of the substitute, as amended, it was decided in the affirmative; after which the 1st Section, as amended, was adopted.

The 2d Section was read, when

Mr. Pomeroy moved that the first sentence be adopted, which was agreed to.

Mr. Stuart, of Doddridge, moved to amend the second sentence by striking out the words "for every six hundred white inhabitants," which was adopted.

Mr. Battelle moved further to amend the same by inserting, before the word "Supervisors," in the 12th line, the words, "or more," and after the word "Supervisors," the words "according to population."

Mr. Caldwell moved to amend by striking out the word "Supervisors," in the 12th line, which was disagreed to.

Mr. Stuart, of Doddridge moved to amend the same by striking out, in the 10th and 11th lines, the words "first Thursday of April," and inserting the words "fourth Thursday of May," which was rejected,

And, on motion of Mr. Soper, the Convention adjourned.

SATURDAY, JANUARY 18, 1862.

The Convention met pursuant to adjournment.

Prayer by the Rev. R. V. Dodge, of the Presbyterian Church.

The Journal of yesterday was read and approved.

The President stated that the question was upon the adoption of the second sentence of the 2d Section of the Report of the Committee on County Organization, as amended on yesterday.

Mr. Brown, of Preston, moved further to amend the same by striking out the words "on the first Thursday of April," and insert

the words "on the day of the stated township meeting," which was adopted.

Mr. Dille moved to amend further by adding to said amendment the words "which shall be held on the first Thursday of April."

Mr. Brown, of Kanawha, moved to amend the amendment by striking out all after the word "annually," in the 10th line, to the word "elect," in the 11th line, which was agreed to.

The second sentence of the 2d Section was then adopted, as amended.

Upon the reading of the third sentence,

Mr. Sinsel moved to strike out all from the beginning to the word "but," in the 18th line, and insert the following: "They shall elect one Justice of the Peace for the township, whose term of office shall be four years, and one constable, whose term of office shall be two years."

Mr. Lamb moved to amend the amendment by inserting therein, before the word "Justice," the words "or more," and also the same words before the word "Constable," which was disagreed to.

Mr. Van Winkle moved to amend the amendment by inserting, in lieu of the word "four," the word "three," which motion was adopted.

And the question then recurring upon the adoption of the amendment of Mr. Sinsel, as amended, it was decided in the negative.

Mr. Van Winkle moved to amend the said clause by striking out the words "one thousand," and inserting "twelve hundred," and also to insert, after the word "number," in the 17th line, the words "may elect," which was agreed to.

Mr. Van Winkle also moved to amend the same by striking out, in the 15th line, the word "biennially," and insert the words "every three years."

Mr. Brown, of Kanawha, moved to amend the amendment by inserting the words "every four years," in lieu thereof.

The hour of 12½ o'clock arrived, and the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

The amendment of Mr. Brown, of Kanawha, to the amendment of Mr. Van Winkle, to insert "four," instead of "three" years, was adopted; after which the amendment, as amended, was agreed to.

Mr. Lamb moved to insert, after the word "and," in the 17th line, the words "every two years," which was agreed to.

Mr. Stuart, of Doddridge, moved further to amend by striking out all after the word "Justices," in the 18th line, to the end of the sentence; and upon this question the yeas and nays were demanded, which demand being sustained, the amendment was adopted—yeas 18, nays 15.

And, on motion of Mr. Lamb, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Preston, Brooks, Battelle, Haymond, Harrison, Hubbs, Irvine, McCutchen, Parsons, Parker, Robinson, Stevenson of Wood, Stevenson of Clay, Stuart of Doddridge, Soper, Taylor, Wilson—18.

NAYS—Messrs. Chapman, Dering, Dille, Hansley, Hall of Marion, Hagar, Lamb, Powell, Paxton, Singel, Simmons, Stewart of Wirt, Van Winkle, Walker, Warder—15.

The third sentence, as amended, was then adopted.

And the fourth sentence was adopted, as reported; after which the 2d Section, as amended, was adopted.

The first sentence of the 3d Section being read,

Mr. Parker moved to amend the same by adding, at the end thereof, the words "not inconsistent with this, the Federal Constitution, or the laws of the land," which motion was rejected.

The first sentence was then adopted.

Upon the reading of the second sentence,

Mr. Lamb moved to amend the same by striking out all after the word "shall," in the 27th line, to the word "meet," in the 28th line, which was decided in the affirmative.

Mr. Haymond moved further to amend the same by striking out, in the 27th line, the words "four times," and inserting "twice," which was disagreed to.

The second sentence was then adopted, as amended.

Upon the reading of the third sentence,

Mr. Stuart, of Doddridge, moved to strike out all after the word "Board," in the 33d line.

Mr. Soper moved to amend the amendment by striking out the words "of the county," in the 33d line, after the words "clerk," and the motion of Mr. Soper was agreed to.

And the question being upon the amendment of Mr. Stuart, it was decided in the negative.

The third sentence was then adopted; after which, the 3d Section, as amended, was adopted.

The 4th Section being read, the following misprints were corrected:

Before the word "under," in the 39th line, insert the word "shall;" strike out "buildings," in the 43d line, and insert "landings;" in same line, strike out "wills" and insert "mills;" insert "the" before the word "election," in the 48th line.

The 4th Section was then adopted.

The 5th Section was read, and the word "one," before "sheriff," in the 53d line was stricken out by general consent, and the word "a" inserted; and the word "one," before "Prosecuting Attorney," before "Surveyor of Lands," and before "Recorder of Deeds and Wills," was also stricken out.

Mr. Parker moved to strike out the words "Prosecuting Attorney," in the 53d line, which was disagreed to.

And, on motion of Mr. Walker, the Convention adjourned.

### MONDAY, JANUARY 20, 1862.

The Convention met at 9½ o'clock, A.M., and after prayer by Rev. Mr. Brooks, member of the Convention, the Minutes were read and approved.

Mr. Lamb, Chairman of the Committee on the Legislative Department, submitted the following Report, which was laid on the table, and ordered to be printed.

#### THIRD REPORT OF THE COMMITTEE ON THE LEGISLATIVE DEPARTMENT.

The Committee having reconsidered so much of their Report as relates to the number and apportionment of members of the Legislature, recommend the adoption of the following provisions as part of the Constitution of the State, instead of the 2d, 3d, 4th, 5th, 6th, 7th, and 8th Sections of the Second Report:

2. The Senate shall be composed of eighteen, and the House of Delegates of forty-seven members, subject to be increased according to the provisions hereinafter contained.

3. The term of office of Senators shall be two years, and that of Delegates one year—commencing, in each case, on the 4th day of July succeeding their election; except that the terms of the Senators and Delegates first elected shall commence twenty days after their election. The Senators first elected shall divide themselves into two classes, one Senator from every district being assigned to each class; and of these classes, the first, to be designated by lot, in such manner as the Senate may determine, shall hold their offices for one year, and the 2d for two years; so that, after the first election, one half of the Senators shall be elected annually. Vacancies in either branch shall be filled by election, for the unexpired term, in such manner as shall be prescribed by law.

4. For the election of Senators, the State shall be divided into nine Senatorial Districts; which number shall not be diminished,

but may be increased, as hereinafter provided. Every district shall choose two Senators. The districts shall be equal, as nearly as possible, in white population, according to the returns of the United States census. They shall be compact—formed of contiguous territory—and be bounded by county lines. After every census hereafter taken by authority of the United States, the Legislature shall alter the Senatorial Districts, so far as may be necessary to make them conformable to the foregoing provisions.

5. The Legislature may at any time, by law, divide any Senatorial District, by county lines or otherwise, into two sections, which shall be equal, as nearly as possible, in white population. If such division be made; each of the Sections shall elect one Senator, instead of the district electing two; and the Senators so to be elected shall be classified in such manner as the Senate may determine.

6. Until the Senatorial Districts be altered by the Legislature, after the next census, the counties of Hancock, Brooke and Ohio shall constitute the 1st Senatorial District; Marshall, Wetzel and Marion the 2d; Monongalia, Preston and Taylor the 3d; Pleasants, Tyler, Ritchie, Doddridge and Harrison the 4th; Wood, Jackson, Wirt, Roane, Calhoun and Gilmer the 5th; Barbour, Tucker, Lewis, Braxton, Upshur, and Randolph the 6th; Mason, Putnam, Kanawha, Clay and Nicholas the 7th; Cabell, Wayne, Boone, Logan, Wyoming, Mercer and McDowell the 8th, and Webster, Pocahontas, Fayette, Raleigh, Greenbrier and Monroe the 9th.

7. For the election of Delegates, every county containing a white population of less than half the ratio of representation for the House of Delegates, shall, at each apportionment, be attached to some contiguous county or counties, to form a Delegate District.

8. When two or more counties are formed into a Delegate District by the Legislature, they shall provide by law that the Delegates to be chosen by the voters of the District shall be, in rotation, residents of each county, for a greater or less number of terms, proportioned, as nearly as can be conveniently done, according to the white population of the several counties in the District.

9. After every census hereafter taken by authority of the United States, the Delegates shall be apportioned as follows:

The ratio of representation for the House of Delegates shall be ascertained by dividing the whole white population of the State by the number of which the House is to consist, and rejecting the fraction of a unit, if any, resulting from such division.

Dividing the white population of every Delegate District, and of every county not included in a Delegate District, by the ratio thus ascertained, there shall then be assigned to each a number of

Delegates equal to the quotient obtained by this division of its white population, excluding the fractional remainder.

The additional Delegates which may be necessary to make up the number of which the House is to consist, shall then be assigned to those Delegate Districts, and counties not included in a Delegate District, which would otherwise have the largest fractions unrepresented. But every Delegate District, and county not included in a Delegate District, shall be entitled to at least one Delegate.

10. Until a new apportionment be declared, the counties of Pleasants and Wood shall form the 1st Delegate District; Calhoun and Gilmer the 2d; Clay and Nicholas the 3d; Webster and Pocahontas the 4th; Tucker and Randolph the 5th; McDowell, Wyoming and Raleigh the 6th. The first Delegate District shall choose two Delegates and the other five, one each.

11. The Delegates to be chosen by the 1st Delegate District shall, for the first term, be both residents of the county of Wood, and for the second term one shall be a resident of Wood and the other of Pleasants county, and so in rotation. The Delegate to be chosen by the 2d Delegate District shall, for the first term, be a resident of Gilmer, and for the second of Calhoun county. The Delegate to be chosen by the 3d Delegate District shall, for the first two terms, be a resident of Nicholas, and for the third term of Clay county. The Delegate to be chosen by the 4th Delegate District shall, for the first two terms, be a resident of Pocahontas, and for the third term of Webster county. The Delegate to be chosen by the 5th Delegate District shall, for the first three terms, be a resident of Randolph, and for the fourth term of Tucker county. And the Delegate to be chosen by the 6th Delegate District shall, for the first and second terms, be a resident of Raleigh, for the third term of McDowell, and for the fourth and fifth terms of Wyoming county—and so, in each case, in rotation.

12. Until a new apportionment be declared, the apportionment of Delegates to the counties not included in Delegate Districts shall be as follows:

To Barbour, Boone, Braxton, Brooke, Cabell, Doddridge, Fayette, Hancock, Jackson, Lewis, Logan, Mason, Mercer, Putnam, Ritchie, Roane, Taylor, Tyler, Upshur, Wayne, Wetzel and Wirt counties, one Delegate each.

To Harrison, Kanawha, Marion, Marshall, Monongalia, and Preston counties, two Delegates each.

To Ohio county three Delegates.

To Greenbrier and Monroe counties together, three Delegates, of

whom, for the first term, two shall be residents of Greenbrier, and one of Monroe county; and for the second term two shall be residents of Monroe, and one of Greenbrier county, and so in rotation.

13. If the counties of Pendleton, Hardy, Hampshire and Morgan become part of this State, they shall, until the next apportionment, constitute the Tenth Senatorial District, and choose two Senators. And if the counties of Frederick, Berkely and Jefferson become part of the State, they shall, until the next apportionment, constitute the Eleventh Senatorial District, and choose two Senators. And the number of the Senate shall be, in the first case, twenty, and, in the last, twenty-two, instead of eighteen.

14. If the seven last named counties become part of this State, the apportionment of Delegates to the same, shall, under the next apportionment, be as follows: To Pendleton and Hardy one each; to Hampshire, Frederick and Jefferson, two each; and the counties, of Morgan and Berkely shall form the Seventh Delegate District, and choose two Delegates; of whom, for the first term, one shall be a resident of Berkely and the other of Morgan county; and for the second term both shall be residents of Berkely county, and so on in rotation.

But if the counties of Pendleton, Hardy, Hampshire and Morgan become part of this State, and Frederick, Berkely and Jefferson do not, then Pendleton, Hardy and Morgan counties shall each choose one Delegate, and Hampshire two, until the next apportionment.

The number of the House of Delegates shall, instead of forty-seven, be, in the first case, fifty-seven, and, in the last case fifty-two.

15. The arrangement of the Senatorial and Delegate Districts, and apportionment of Delegates, shall hereafter be declared by law, as soon as possible after each succeeding census taken by authority of the United States. When so declared, they shall apply to the first general election for members of the Legislature to be thereafter held, and shall continue in force, unchanged, until such Districts be altered, and Delegates be apportioned under the succeeding census.

16. The regular elections for members of the Legislature shall be held on the 4th Thursday of May.

By order of the Committee,

DANIEL LAMB, *Chairman.*

Mr. Walker presented a petition, signed by various citizens of McDowell county, praying that J. P. Hoback be admitted to a seat in this Convention, as a Delegate for said county, which, on motion

of Mr. Stevenson, of Wood, was referred to the Committee on credentials.

Mr. Soper presented a petition, signed by various citizens of Mercer county, praying that Richard M. Cook, be admitted to a seat in this Convention, as a Delegate for said county, which, on motion of Mr. Soper, was referred to the Committee on Credentials.

The question being upon the adoption of the first sentence of the 5th Section of the Report of the Committee on County Organization,

Mr. Dille moved to strike out the words "of Deeds and Wills," in the 54th line, which was agreed to.

Mr. Stephenson, of Wood, moved to amend the same by inserting, in the 58th line, the words "as far as practicable," which motion was adopted.

The first sentence of said Section was then adopted.

Upon the reading of the second sentence,

On motion of Mr. Van Winkle, the words, "first day of October" were stricken out, and "fourth day of July" inserted.

Mr. Stuart, of Doddridge, moved to amend the 61st line by striking out "three" and inserting "one" in lieu thereof.

Mr. Dering asked for a division of the question, and the vote being taken upon striking out the word "three," it was decided in the affirmative.

And the question then being upon inserting "one" in the blank, it was decided in the negative.

Mr. Smith then moved to fill the blank by inserting "four," and upon this question the yeas and nays were demanded, which being sustained, the amendment was adopted—yeas 23, nays 14,

And, on motion of Mr. Warder, the vote was recorded as follows.

**YEAS**—Messrs. Brown of Preston, Brown of Kanawha, Battelle, Chapman, Dering, Dille, Hall of Marion, Harrison, Irvine, Lamb, Montague, Mahen, Parker, Robinson, Ruffner, Sinsel, Stevenson of Clay, Stewart of Wirt, Smith, Taylor, Van Winkle, Willey, Warder—23

**NAYS**—Messrs. Brooks, Brumfield, Hansley, Haymond, Hagar, McCutchen, O'Brien, Parsons, Powell, Simmons, Stevenson of Wood, Stuart of Doddridge, Soper, Wilson—14.

The second sentence was then adopted, as amended.

The third sentence being read,

Mr. Van Winkle moved to amend the same by striking out the word "the," at the end of the 62d line, and insert the words "any person who has acted as."

Mr. Brown, of Kanawha, moved to amend the amendment by inserting, after the word "sheriff," in the 63d line, the words "within one year," which was rejected.

Mr. Sinsel moved to amend the amendment by inserting, after the word "sheriff," in the 63d line, the words, "within two years," which was rejected.

Mr. Van Winkle's amendment was then adopted.

Mr. Willey moved to amend further by adding, after the word "successor," in the 63d line, the words "nor shall any sheriff act as the deputy of his successor," which was adopted.

Whereupon, the third sentence was adopted, as amended.

The fourth sentence being read,

Mr. Brown, of Kanawha moved to strike out the word "personal," in the 68th line, which was agreed to.

The fourth sentence was then adopted, and the question being upon the adoption of the 5th Section, as amended, it was agreed to.

The 1st Clause of the 6th Section was then read and adopted, also the second sentence.

Upon the reading of the third sentence,

Mr. Lamb moved to insert, after the word "misconduct," in the 79th line, the word "incompetency," which was agreed to, and the sentence was adopted.

The fourth sentence was also read and adopted; and the question being upon the adoption of the 6th Section, as amended, it was decided in the affirmative.

The hour of 12½ o'clock arrived, and the Convention took a recess.

### 3½ O'CLOCK, P. M.

The Convention reassembled.

The first sentence of the 7th Section was read.

Mr. Stuart, of Doddridge, moved to strike out the word "trespass," in the 89th line, which was agreed to.

Mr. Dering moved to strike out "fifty," in the 93d line, and insert "one hundred."

Mr. Stuart, of Doddridge, moved to strike out the whole Section, and insert in lieu thereof the following:

"The powers and duties of Justices of the Peace shall be prescribed by law,"

Mr. Brown, of Preston, by general consent, submitted the following resolution:

*Resolved*, That, when this Convention adjourns, it adjourn to meet each day at 9 o'clock, A. M., until otherwise ordered.

And the question being upon the adoption of the resolution, it was decided in the negative.

And pending the consideration of the amendment of Mr. Stuart, of Doddridge, to the amendment of Mr. Dering,

The Convention, on motion of Mr. Hagar, adjourned.

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## TUESDAY, JANUARY 21, 1862.

The Convention met at 9½ o'clock, A. M., and after prayer by Rev. David Hervey, of the Presbyterian church, the minutes of yesterday were read and approved.

Mr. Parker moved to amend the point of order submitted by him on the 13th of this month by striking out the same and inserting the following, which was agreed to:

"The amendment of Mr. Van Winkle to strike out of the 2d Section of the Report of the Committee on the Legislative Department the word "forty-six," and insert "fifty-four," having been rejected on Friday, the 10th inst., and the Section adopted; and on Saturday the 11th, the Convention having voted to reconsider the vote adopting the Section, and the same amendment to substitute "54" for "46," being again proposed and objected to, as being out of order, and in violation of the 8th rule adopted by the Convention for its government, the President ruled the amendment to be in order, and from that decision an appeal is taken to the Convention."

Mr. Sinsel, from the Committee on Credentials, submitted the following Report:

"The Committee on Credentials having had under consideration the petition of citizens of Mercer county, asking that Richard M. Cook be admitted to a seat in this Convention; also the petition of citizens of McDowell county, asking that J. P. Hoback be admitted to a seat in this Convention, are of opinion that the said Richard M. Cook and J. P. Hoback should be admitted to seats in this Convention.

HARMON SINSEL, *Chairman*."

Mr. Hoback and Mr. Cook appeared, and the oaths embraced in the Ordinance for the reorganization of the State Government was administered to them, and they took their seats in the Convention.

The question was stated by the President to be upon the substitute offered last night by Mr. Stuart, of Doddridge, to the amendment offered by Mr. Dering.

The hour of 12½ o'clock arrived, and the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Stuart, of Doddridge, asked for a division of his substitute; and the question being, first, upon striking out the 7th Section, the yeas and nays were demanded, and the demand being sustained, the motion was rejected—yeas 13, nays 26.

And, on motion of Mr. Simmons, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Preston, Dille, Hall of Marion, Harrison, Hervey, Irvine, McCutchen, Parker, Stuart of Doddridge, Smith, Taylor, Willey—13.

NAYS—Messrs. Brumfield, Battelle, Chapman, Cook, Dering, Hansley, Haymond, Hoback, Hagar, Montague, O'Brien, Parsons, Powell, Pomeroy, Robinson, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle, Walker, Warder, Wilson—26.

The question then recurring upon the amendment of Mr. Dering to strike out "fifty" and insert "one hundred," it was decided in the affirmative.

Mr. Van Winkle moved to strike out the words "embrace all," in the 89th line, and insert, in lieu thereof, the words "extend to;" which was agreed to; and the word "however" was inserted after the word "subject."

Mr. Hervey moved to strike out, in the 89th line, the words "detinue" and "trover," which was disagreed to.

Mr. Soper, offered the following amendment:

Strike out all said Section, to the word "subject," in the 93d line, and insert in lieu thereof, "The jurisdiction and duties of Justices of the Peace, in civil actions and special cases, wherein the amount claimed does not exceed one hundred dollars, shall be regulated by law, to be exercised within the township in which the Justice resides and the defendant is found, or the cause of action arose," and the question being upon the amendment it was rejected.

Mr. Willey, moved to amend the said Section by inserting, after the word county, in the 94th line, the following:

"But in every case where the sum or thing in controversy exceeds the amount or value of twenty dollars, the Justice shall, upon the application of the defendant, at any time before trial, remove the cause to the Circuit Court of the County wherein the same shall be brought, and the Clerk of the said Court shall docket the same, and it shall be proceeded in as if it were an original motion, made in said Court.

Mr. Van Winkle moved to amend the amendment by inserting, after the word "county," in the 94th line, the words "where the value in controversy exceeds twenty dollars;" pending which,

On motion of Mr. Harrison, the Convention adjourned.

WEDNESDAY, JANUARY 22, 1862.

The Convention met at 9½ o'clock, A. M., and was opened with prayer by Rev. Alfred Paul, of the Presbyterian Church.

The Journal of yesterday was read and approved.

Mr. Van Winkle withdrew the amendedment which he offered last night, to the amendment of Mr. Willey.

Mr. Brown of Preston, offered the following resolution :

*Resolved*, That when this Convention adjourns, it adjourn to meet hereafter at 9½ o'clock, A. M., until otherwise ordered.

And the question being upon the adoption of the resolution, the yeas and nays were demanded, which demand being sustained, the resolution was adopted—yeas 36, nays 4.

And on motion of Mr. Brown of Preston, the vote was recorded as follows :

YEAS—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Battelle, Cook, Dering, Dille, Hansley, Hall of Marion, Haymond, Harrison, Hervey, Hoback, Hagar, Irvine, Montague, Mahon, McCutchen, Parsons, Powell, Parker, Paxton, Pomeroy, Robinson, Sinsel, Simmons, Stevenson of Wood, Stevenson of Clay, Stewart of Wirt, Sheets, Taylor, Trainer, Walker, Warder, Wilson—36.

NAYS—Messrs. John Hall (President), Stuart of Doddridge, Soper, Van Winkle—4.

Mr. Stevenson of Wood, offered the following resolution, which was rejected :

*Resolved*, That hereafter, until otherwise ordered, this Convention will adjourn at a quarter before 6 o'clock.

The question then recurring upon the adoption of Mr. Willey's amendment submitted on yesterday, the yeas and nays were demanded, which demand being sustained, the amendment was rejected—yeas 18, nays 24.

And on motion of Mr. Irvine, the vote was recorded as follows :

YEAS—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Dille, Hall of Marion, Harrison, Hervey, Irvine, McClutchen, Robinson, Ruffner, Stevenson of Clay, Stuart of Doddridge, Taylor, Trainer, Willey, Walker, Wilson—18.

NAYS—Messrs. Brumfield, Battelle, Chapman Cook, Dering, Hansley, Haymond, Hoback, Hagar, Montague, Mahon, O'Brien, Parsons, Powell, Parker, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Van Winkle, Warder—24.

Mr. Van Winkle moved to insert after the word "found," in the 91st line, the words "or has effects or estate," and to insert after the word "or," in the 100th line, the words "of any township in the State," which motions were agreed to.

Mr. Van Winkle moved further to amend the said Section, by adding at the end of the Section, the following :

"The manner of prosecuting the aforesaid actions, and of issuing summonses and executions, and of executing and making return of the same, shall be prescribed by law; and the Legislature may give to Justices of the Peace and Constables, such additional civil juris-

diction and powers within their respective townships as may be deemed expedient."

And the question being upon this amendment, it was adopted.

Mr. Brown of Kanawha, moved to strike out all from the word "executions," in the 98th line, to the word "found," in the 100th line, which was agreed to.

Mr. Brown, of Kanawha, moved to amend the 89th line by inserting before the word "assumpsit" the word "*indebitatus*," and the question being upon this amendment, it was rejected.

Mr. Van Winkle moved to amend by inserting after the word "county," in the 94th line, the words "where such value in controversy exceeds twenty dollars."

Mr. Wilson moved to amend the amendment by inserting "ten dollars" in lieu of "twenty dollars," and the question being upon the amendment to the amendment, it was decided in the affirmative.

The question then recurring upon the amendment, as amended, it was adopted.

Mr. Soper moved to amend further by striking out the words "value in controversy," in the 92d line, and insert "amount claimed," which was agreed to.

The 7th Section, as amended, was then adopted.

Upon the reading of the 8th Section,

Mr. Soper moved to amend the same by striking out all after the word "county," in the 107th line, to the word "as," in the 110th line, and insert the words "and have such jurisdiction in criminal cases therein," which was agreed to.

And, on motion of Mr. Van Winkle, the first five lines of the Section, as amended were adopted.

The balance of the Section being read,

Mr. Stevenson, of Wood, moved to strike out of the 111th line the words "the former office of," which was agreed to.

Mr. Willey moved further to amend by striking out all from the word "every," in the 111th line, to the word "county," in the 114th line, inclusive; and also all after the word "therein."

The Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Willey's amendment to the 8th Section, was adopted.

Mr. Van Winkle then moved the adoption of the balance of the Section, which was agreed to.

Upon the reading of the 9th Section,

Mr. Van Winkle stated that the first sentence, in substance, had been adopted in another Report, and the further consideration thereof was dispensed with.

Mr. Van Winkle moved to strike out the last four lines of the Section, and insert "subject to the provisions of the 1st Section hereof," which was agreed to; and the second sentence, as amended, was adopted.

And, on motion of Mr. Van Winkle, the further consideration of the Report on County Organization was postponed.

Mr. Battelle, Chairman of the Committee on Education, submitted the following Report, which was laid on the table and ordered to be printed:

#### FIRST REPORT OF THE COMMITTEE ON EDUCATION.

The Committee on Education respectfully recommend that the following provisions be inserted in the Constitution:

G. BATTELLE, *Chairman.*

1. All money, being the proceeds of forfeited, waste and unappropriated lands; all grants, devises or bequests that may be made to this State for the purposes of education, or where the purpose of such grants, devises or bequests are not specified; the revenues accruing from any stock owned by this State in any bank or other corporation, or the proceeds of the sale of such stock; any sums due this State from any other State on account of educational purposes; the proceeds of the estates of all deceased persons that may have died without leaving a will or heir; the proceeds of any taxes that are now, or that may hereafter be, levied on the property or revenues of any corporation; and all monies that may be paid as an equivalent for exemption from military duty, shall be set apart as a separate fund, to be called the School Fund, and invested under such regulations as may be prescribed by law, in the interest bearing securities of the United States, or of this State; and the annual increase thereof shall be sacredly devoted and applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said increase remaining unexpended at the close of a fiscal year, shall be added to, and remain a part of, the capital of the School Fund.

2. The Legislature shall provide, by all suitable means, for the establishment, within three years from the adoption of this Constitution, of a thorough and efficient system of free schools. They shall annually appropriate for the support of such schools the increase from the invested school fund; the clear proceeds of all forfeitures,

recoveries, confiscations and fines accruing to this State under the laws thereof, not less than one-half of the amount derived from the State capitation tax, and such an additional sum derived from taxation on property as shall, with the sums raised for school purposes in the several townships, cities and towns, by the proper authorities thereof, be sufficient to provide primary instruction in free schools, during at least three months in each year, to the children, between the ages of six and twenty-one years; of all the citizens of this State.

3. Provision shall be made by law for distributing the money annually appropriated by the Legislature for the support of schools, among the several counties, in proportion to their respective numbers of white population; and for distributing the amount so received by each county, among the several townships, cities and towns thereof, in proportion to the sums of money levied by each for free school purposes. But no part of the money appropriated by the Legislature for the support of free schools shall be used for the erection or repair of school houses.

4. Each township, city and town shall be required by law to raise annually, by tax on persons and property, for the support of free schools therein, a sum not less than one-half the amount received by such township, city or town respectively, for school purposes, from the annual appropriation by the Legislature, a part or the whole of which tax may be applied to the erection and repair of school houses. Any township, city or town failing to raise such annual tax, or any school district failing to maintain a free school therein during at least three months in each year, shall receive no part of the school appropriation from the State for the year during which such failure occurs.

5. Provision shall be made by law for the election, powers, duties and compensation of a General Superintendent of free schools for the State, whose term of office shall be the same as that of the Governor; and for a County Superintendent for each county, and for the election, in the several townships, by the people, of such officers, not specified in the Constitution, as may be necessary to carry out the objects of this article; and for the organization, whenever it may be deemed expedient to do so, of a State Board of Public Instruction.

6. The Legislature shall foster and encourage moral, intellectual, scientific and agricultural improvement; they shall make suitable provision for the establishment and maintenance of Institutes for the blind, mute and insane; and whenever it may be practicable to do so, for the organization of such other institutions of learning

as the best interests of general education in the State may demand.

On motion of Mr. Hall, of Marion, the Report of the Committee on the Judiciary Department was taken up for consideration.

Mr. Van Winkle moved that so much thereof as relates to the construction of Circuits be passed by for the present, which was agreed to.

Mr. Willey moved the adoption of the first five lines.

Mr. Van Winkle moved to substitute for the first sentence the following:

"The judicial power of the State shall be vested in a Supreme Court and Circuit Courts, and such other inferior tribunals as are herein authorized."

Mr. Hervey moved to amend the substitute by inserting, after "Supreme Court," the words "of Appeals," which was agreed to.

Mr. Soper moved to add at the end of the said substitute the words "or as may hereafter be authorized," which was disagreed to, and the substitute, as amended, was adopted.

The 1st Section, as amended, was then adopted

The 3d Section being read,

Mr. Sinsel moved to strike out all after the word "Circuits," in the 35th line, which was disagreed to.

On motion of Mr. Hervey, the Convention adjourned.

#### THURSDAY, JANUARY 23, 1862.

The Convention met at 9 o'clock, A. M.

The session was opened with prayer by the Rev. W. W. Campbell, of the Presbyterian church, Fairmont, Va.

The Minutes of yesterday were read and approved.

Mr. Sinsel offered the following resolution:

*Resolved*, That the Clerk call the roll each morning at 9 o'clock, and record the absentees.

And the question being upon the adoption of the resolution, it was disagreed to.

The President stated that the question was upon the adoption of the 3d Section of the Report of the Committee on the Judiciary Department.

Mr. Harrison moved to amend the same by striking out the word "five," in the 35th line, and inserting "three," which was disagreed to.

The 3d Section was then adopted, as reported.

Upon the reading of the 4th Section,

Mr. Soper moved to amend the same, in the 41st line, by striking out the word "eight," and inserting "six."

Mr. Dering moved to amend the amendment by striking out "eight" and inserting "twelve," and adding, after the word "Constitution," in the 43d line, the words "and thereafter to be intelligible."

Pending the consideration of which, at the usual hour, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Dering modified the amendment submitted by him this morning, so as to insert "ten years," instead of "twelve;" and adding, after the word "Constitution," in the 43d line, the words "but thereafter to be intelligible to re-election in the same Circuit," but withdrew his amendment for the present.

Mr. Dille asked for a division of the question upon Mr. Soper's amendment, to strike out the word "eight," and insert "six."

And the question being, first, upon striking out the word "eight," the yeas and nays were demanded, which demand being sustained, the motion to strike out was agreed to—yeas 24, nays 20.

And, on motion of Mr. Stevenson, of Wood, the vote was recorded as follows:

**YEAS**—Messrs. Brown of Preston, Dering, Hansley, Hall of Marion, Haymond, Hervey, Hoback, Hagar, Lamb, Mahon, O'Brien, Powell, Parker, Paxton, Pomeroy, Simmons, Stevenson of Wood, Stuart of Doddridge, Soper, Taylor, Van Winkle, Walker, Warder, Wilson—24.

**NAYS**—Messrs. Brown of Kanawha, Brooks, Battelle, Chapman, Caldwell, Carskadon, Dille, Harrison, Irvine, Montague, McCutchen, Parsons, Robinson, Sinsel, Stevenson of Clay, Stewart of Wirt, Sheets, Smith, Trainer.—20.

The question then recurring upon inserting the word "six" in the blank, the yeas and nays were demanded, and the demand being sustained, the motion was decided in the negative—yeas 21, nays 24,

And, on motion of Mr. Hervey, the vote was recorded as follows.

**YEAS**—Messrs. Brumfield, Cook, Hansley, Haymond, Hervey, Hoback, Hagar, Mahon, O'Brien, Parsons, Powell, Simmons, Stevenson of Wood, Stuart of Doddridge, Stewart of Wirt, Sheets, Soper, Taylor, Van Winkle, Walker, Wilson—21.

**NAYS**—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Battelle, Chapman, Caldwell, Carskadon, Dering, Dille, Hall of Marion, Harrison, Irvine, Lamb, Montague, McCutchen, Parker, Paxton, Pomeroy, Robinson, Sinsel, Stevenson of Clay, Smith, Trainer, Warder—24.

Mr. Dering then renewed his motion.

Mr. Battelle asked for a division of the question, and the question being upon inserting, after the word "Constitution" the words "but thereafter to be intelligible to re-election in the same circuit,"

the yeas and nays were demanded, which demand being sustained, the amendment was rejected—yeas 13, nays 33.

And, on motion of Mr. Hagar, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Preston, Caldwell, Carskaden, Dering, Dille, Hall of Marion, Lamb, Parsons, Parker, Paxton, Sheets, Smith—13

NAYS—Messrs. Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, Cook, Hansley, Haymond, Harrison, Hervey, Hoback, Hagar, Irvine, Montague, Mahon, McCutchen, O'Brien, Powell, Pomeroy, Robinson, Sinsel, Simmons, Stevenson of Wood, Stevenson of Clay, Stewart of Wirt, Stuart of Doddridge, Soper, Taylor, Trainer, Van Winkle, Walker, Warder, Wilson—33.

Mr. Pomeroy asked to be excused from voting, but it was disagreed to.

Mr. Dering then withdrew the balance of his amendment.

Mr. Pomeroy moved to reconsider the vote by which the Convention refused to insert the word "six" in the blank, and the motion being put, it was determined in the affirmative.

And the question again recurring upon inserting in the blank the word "six," the yeas and nays were demanded, which demand being sustained, the motion was agreed to—yeas 29, nays 16.

And, on motion of Mr. Pomeroy, the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brumfield, Dering, Dille, Hansley, Haymond, Hervey, Hoback, Hager, Lamb, Montague, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Taylor, Trainer, Van Winkle, Walker, Wilson—29.

NAYS—Messrs. John Hall (President), Brown of Kanawha, Brooks, Battelle, Chapman, Caldwell, Carskaden, Hall of Marion, Harrison, Irvine, McCutchen, Robinson, Sinsel, Stevenson of Clay, Smith, Warder—16.

The first sentence of such section was then adopted.

Upon the reading of the second sentence,

Mr. Battelle moved to strike out the word "thirty-five," in the 45th line, and insert "thirty," which motion was rejected.

The 4th Section, as amended, was then adopted.

The 5th Section was read, when

Mr. Brown, of Kanawha, moved to strike out the word, "now," in the 50th line, and insert the word "hereby," which was agreed to, after which the first sentence of the 5th Section was adopted.

Pending the consideration of the second sentence,

On motion of Mr. Van Winkle, the Convention adjourned.

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FRIDAY, JANUARY 24th, 1862.

The Convention met at 9 o'clock, A. M., and after prayer by the Rev. Mr. Powell, member of the Convention, the minutes were read and approved.

Mr. Dering presented a petition signed by one hundred and three citizens of Monongalia, praying that a provision be inserted in the Constitution of the proposed new State, prohibiting the Legislature from appropriating money for Internal Improvements, and also a provision limiting the per diem of the members of the Legislature, after the first Session to thirty days, which was read and laid on the table.

The question being upon the adoption of the second clause of the 5th Section of the Report of the Committee on the Judiciary Department,

Mr. Hervey offered to amend the same, by substituting therefor the words: "But a judge of any Circuit may exchange with the Judge of any other Circuit," which was rejected.

The second sentence was then adopted, and the question being upon the adoption of the 5th Section, as amended, it was agreed to.

The 6th Section was read, and the first and second sentences were adopted.

Mr. Haymond moved to amend the third sentence, by striking out, in the 58th line, the word "twelve," and inserting "eight," which was rejected.

Mr. Pomeroy moved to strike out the word "twelve," in the 58th line, and insert "ten," which was disagreed to.

Mr. Stevenson, of Wood, moved to strike out "twelve," and insert "nine."

Mr. Lamb asked for a division of the amendment, and the question being first upon striking out "twelve," the yeas and nays were demanded, and the demand being seconded, the motion was rejected—yeas 17, nays 28.

And, on motion of Mr. Stevenson, of Wood, the vote was recorded as follows:

**YEAS**—Messrs. Brumfield, Cook, Hansley, Haymond, Hervey, Hobach, Hagar, O'Brien, Parsons, Powell, Pomeroy, Stevenson of Wood, Stewart of Doddridge, Soper, Van Winkle, Walker, Wilson—17.

**NAYS**—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brooks, Chapman, Caldwell, Carskadon, Dering, Dille, Hall of Marion, Harrison, Hubbs, Irvine, Lamb, Montague, Mahon, McOutchen, Paxton, Robinson, Ruffner, Sinsel, Simmons, Stephenson of Clay, Stewart of Wirt, Sheets, Taylor, Trainer, Warder—28.

Mr. Lamb offered the following amendment, to be inserted at the end of the section; "of the judges first elected, one to be designated by lot, in such manner as they shall determine, shall hold his office for four years; another, to be designated in like manner, for eight years, and the third for twelve years, so that thereafter one shall be elected every four years;" and the question being upon the adoption of the amendment, it was decided in the affirmative, and thereupon the 6th Section, as amended, was adopted.

Mr. Brown, of Kanawha, moved to substitute for the 7th Section the following:

"The Supreme Court of Appeals shall have original jurisdiction in cases of *habeas corpus*, *mandamus* and *prohibition*. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs is of greater value or amount than two hundred dollars; and in controversies concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee, or curator, or concerning a mill, road, way, ferry, or landing, or the right of a corporation, or a county to levy tolls or taxes, and also in cases of *habeas corpus*, *mandamus* and *prohibition*, and cases involving freedom or the constitutionality of a law. It shall have appellate jurisdiction in criminal cases wherever there has been a conviction for felony or misdemeanor in a Circuit Court. It shall have such other appellate jurisdiction in civil and criminal cases as may be prescribed by law."

And the question being upon the adoption of the substitute, it was decided in the affirmative.

Mr. Brown, of Kanawha, upon the reading of the 8th Section, moved to amend the same by inserting after the words "shall be," the words "concisely and briefly" which was agreed to, and the 8th Section, as amended was adopted.

The 9th Section being read,

Mr. Van Winkle moved to substitute for it the following:

"When any Judge of the Court of Appeals is so situated in regard to any case pending before it as to make it improper for him to aid in the trial of the same, or is under any other disability, the remaining Judges may call to their assistance a Judge of the Circuit Court who shall act as a Judge of the Court of Appeals in the cases to which such disability relates."

And the question being upon the adoption of the substitute, it was agreed to.

The 10th Section being read,

Mr. Hervey moved to amend the same by inserting in the 87th line, before the word, "diminished," the words "increased or," which was agreed to. The first sentence was then adopted.

Mr. Pomeroy moved to amend the second sentence, by striking out the words, "not less than," in the 88th line, which was agreed to.

Mr. Sinsel moved further to amend the same, by striking out the words, "two thousand and five hundred," in the 89th line, and insert, in lieu thereof, "two thousand and two hundred."

Mr. Haymond moved to amend the amendment by inserting "two thousand."

The Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

Mr. Hervey moved to pass by, for the present, the further consideration of the 10th Section, which was agreed to.

The 11th Section was read, when

Mr. Van Winkle moved to amend the same by inserting after the words, "public trust," in the 94th line, the words, "under this, or any other Government," which was agreed to.

Mr. Brown, of Kanawha, moved further to amend the same in 96th line, by striking out the words "such term," and inserting the words "his continuance in office," which was adopted.

And the question being upon the adoption of the 11th Section, as amended, it was decided in the affirmative.

The 10th Section was then taken up,

And the question being upon the adoption of the amendment of Mr. Haymond to the amendment of Mr. Sinsel, submitted this morning, a division of it was called for; the President stated that the question would first be put upon striking out the words, "and five hundred" and the question was put, and decided in the affirmative—yeas 27, nays 18.

And, on motion of Mr. Brown, of Preston, the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brooks, Brumfield, Caldwell, Carskadon, Cook, Dille, Hansley, Haymond, Hubbs, Hoback, Hagar, Montague, Mahon, O'Brien, Parsons, Powell, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Sheets, Soper, Taylor, Trainer, Walker, Wilson—27.

NAYS—Messrs. John Hall, (President) Brown of Kanawha, Battelle, Dering, Hall of Marion, Harrison, Hervey, Irvine, Lamb, McCutchen, Paxton, Robinson, Ruffner, Stevenson of Olay, Stewart of Wirt, Stuart of Doddridge, Van Winkle, Warder—18.

Mr. Stevenson, of Wood, by consent, moved to amend the said Section by striking out all after the words "per annum," in the 91st line.

Mr. Soper moved to amend the amendment by striking out all after the word "received," in the 91st line, and insert the words "the same allowance for necessary travel as members of the Legislature," and the question being put upon the motion of Mr. Soper, it was adopted.

The question then being upon Mr. Sinsel's amendment, the President stated that Mr. Haymond's amendment to Mr. Sinsel's motion had been agreed to, by the adoption of the motion to strike out the words "and five hundred," and that, therefore, the question

would be upon the motion of Mr. Sinsel, to insert the words "and two hundred."

Mr. Van Winkle moved to amend the amendment by inserting "and four hundred."

And upon this question the yeas and nays were demanded, and the demand being sustained, the amendment was rejected—yeas 15, nays 32.

And, on motion of Mr. Brown, of Preston, the vote was recorded as follows:

**YEAS**—Messrs. John Hall, (President) Brown of Kanawha, Carskadon, Hall of Marion, Irvine, Lamb, McCutchen, Paxton, Robinson, Ruffner, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Van Winkle, Warder—15.

**NAYS**—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Chapman, Caldwell, Cook, Dering, Dille, Dolly, Hansley, Haymond, Harrison, Hubbs, Hervey, Hoback, Hagar, Montague, Mahon, O'Brien, Parsons, Powell, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Sheets, Soper, Taylor, Trainer, Walker, Wilson—32.

Mr. Caldwell moved to amend the amendment of Mr. Sinsel by inserting the words "and three hundred."

And upon this the yeas and nays were demanded, which being sustained the amendment was rejected—yeas 18, nays 29.

And, on motion of Mr. Hansley, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President) Brown of Kanawha, Caldwell, Carskadon, Dering, Hall of Marion, Hervey, Irvine, Lamb, McCutchen, Paxton, Robinson, Ruffner, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Van Winkle, Warder—18.

**NAYS**—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Chapman, Cook, Dille, Dolly, Hansley, Haymond, Hubbs, Hoback, Hagar, Montague, Mahon, O'Brien, Parsons, Powell, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Sheets, Soper, Taylor, Trainer, Walker, Wilson—29.

The question then recurring upon the amendment of Mr. Sinsel the yeas and nays were demanded, which demand being sustained the motion was rejected—yeas 21, nays 26.

And, on motion of Mr. Hervey, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Brown of Kanawha, Battelle, Chapman, Caldwell, Carskadon, Dering, Dille, Hall of Marion, Hervey, Irvine, Lamb, McCutchen, Paxton, Robinson, Ruffner, Sinsel, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Van Winkle, Warder—21.

**NAYS**—Messrs. Brown of Preston, Brooks, Brumfield, Cook, Dille, Dolly, Haymond, Harrison, Hubbs, Hoback, Hagar, Montague, Mahon, O'Brien, Parsons, Powell, Pomeroy, Simmons, Stevenson of Wood, Sheets, Soper, Taylor, Trainer, Walker, Wilson—26.

Mr. Ruffner, then moved to fill the blank by inserting the words, "and one hundred," and upon this question the yeas and nays were demanded, and the demand being sustained, the amendment was rejected—yeas 19, nays 27.

And, on motion of Mr. Hansley, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Brown of Kanawha, Battelle, Chapman, Caldwell,

Carkadon, Dering, Hall of Marion, Hervey, Irvine, Lamb, McCutchen, Robinson, Ruffner, Sinscl, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Van Winkle—19.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Cook, Dille, Dolly, Hansley, Haymond, Harrison, Hubbs, Hoback, Hagar, Montague, Mahon, O'Brien, Parsons, Powell, Pomeroy, Simmons, Stevenson of Wood, Sheets, Soper, Taylor, Trainer, Walker, Warder, Wilson—27.

Mr. Stuart, of Doddridge, moved to amend the Section in the 90th line, by striking out the words, "not less than two thousand," and insert the words "sixteen hundred."

Mr. Brown, of Kanawha, asked for a division.

And the question being first upon striking out the words, "not less than," it was decided in the affirmative.

Mr. Van Winkle asked that the balance of the motion be divided, and the question then being upon striking out the words, "two thousand," it was agreed to.

Mr. Pomeroy then moved to amend the amendment of Mr. Stuart of Doddridge, by inserting in the blank, the words, "eighteen hundred," in lieu of "sixteen hundred."

Pending the consideration of which,

On motion of Mr. Hagar, the Convention adjourned.

## SATURDAY, JANUARY 25th, 1862.

The Convention met at 9 o'clock, A. M., and after prayer by the Rev. Mr. Hagar, the Minutes were read and approved.

The question being upon the amendment of Mr. Pomeroy, offered last night, to the amendment of Mr. Stuart, of Doddridge, to the 10th Section of the Report of the Committee on the Judiciary Department, the yeas and nays were demanded, which demand being sustained, the amendment to the amendment was adopted—yeas 23, nays 22.

And, on motion of Mr. Hansley the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Battelle, Chapman, Caldwell, Carskadon, Hall of Marion, Harrison, Hervey, Irvine, Lamb, Montague, McCutchen, Parker, Robinson, Ruffner, Stephenson of Clay, Stewart of Wirt, Sheets, Van Winkle, Walker, Warder—23.

NAYS—Messrs. Brown of Preston, Brooks, Cook, Dering, Dille, Dolly, Hansley, Haymond, Hubbs, Hoback, Hagar, Mahon, O'Brien, Parsons, Powell, Sinscl, Simmons, Stevenson of Wood, Stuart of Doddridge, Soper, Taylor, Wilson—22.

The amendment, as amended, was adopted, whereupon

Mr. Van Winkle moved to strike out all from the word "and" in the 10th line, to the word "office," in the 87th line, which was agreed to; and the 10th Section, as amended, was adopted.

The 12th Section was read, when

Mr. Van Winkle moved to amend the same as follows: Insert at the beginning, the words, "The regular elections of Judge shall be held in the day of the annual Township elections; and insert after the word "No," in the 17th line, the words "special," which was agreed to.

Mr. Soper moved to strike out the whole of the 12th Section, as amended; which was agreed to.

Mr. Caldwell submitted the following resolution:

*Resolved*, That from and after this day the per diem of the members of this Convention shall be three dollars.

Mr. Stuart, of Doddridge, moved to amend the resolution, by making it apply only to members living within one hundred and fifty miles of Wheeling.

The Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

The question being upon the amendment of Mr. Stuart, of Doddridge, to the resolution offered by Mr. Caldwell:

Mr. Soper moved to lay the whole subject on the table; and upon this question the yeas and nays were demanded, which demand being sustained, the motion was disagreed to—yeas 13; nays 30.

And, on motion of Mr. Brown, of Kanawha, the vote was recorded as follows:

YEAS—Messrs. Brumfield, Chapman, Carskadon, Hansley, Hoback, Irvine, Parsons, Powell, Simmons, Stuart of Doddridge, Soper, Taylor, Warder—18.

NAYS—Messrs. John Hall (President), Brown of Kanawha, Brown of Preston, Brooks, Battelle, Cook, Dering, Dolly, Hall of Marion, Haymond, Harrison, Hubbs, Hagar, Lamb, Lauck, Montague, Mahon, McCutchen, Parker, Paxton, Robinson, Ruffner, Sinsel, Stevenson of Wood, Stephenson of Clay, Stewart of Wirt, Sheets, Van Winkle, Walker, Willson—30.

Mr. Haymond moved to amend the amendment of Mr. Stuart, of Doddridge, by the following substitute:

*Resolved*, That after the sixty-five days are out we the Convention do agree to stay until the business of the Convention is completed, without compensation.

And the question being upon the adoption of this substitute, the yeas and nays were demanded, which demand being sustained, the motion was rejected—yeas 18, nays 22.

And, on motion of Mr. Haymond, the vote was recorded as follows:

YEAS—Messrs. John Hall, (President) Brown of Preston, Brown of Kanawha, Brooks, Chapman, Cook, Dering, Hall of Marion, Haymond, Harrison, Hagar, Lamb, McCutchen, Paxton, Stevenson of Wood, Stephenson of Clay, Walker, Willson—18.

**NAYS**—Messrs. Brumfield, Battelle, Carskadon, Dolly, Hansley, Hubbs, Hoback, Irvine, Lauck, Parsons, Powell, Parker, Robinson, Sinsel, Simmons, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Taylor, Van Winkle, Warder—22.

And the question being upon the amendment of Mr. Stuart, of Doddridge, it was determined in the negative.

The question then recurring upon the resolution, offered by Mr. Caldwell, the yeas and nays were demanded, which demand being sustained, the resolution was rejected—yeas 11, nays 30.

And, on motion of Mr. Simmons, the vote was recorded as follows:

**YEAS**—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Dering, Hall of Marion, Harrison, Hubbs, Lamb, Paxton, Stuart of Wirt, Van Winkle—11.

**NAYS**—Messrs. John Hall (President) Brumfield, Battelle, Chapman, Carskadon, Cook, Dolly, Hansley, Haymond, Hagar, Hoback, Irvine, Lauck, Montague, McCutchen, Parsons, Powell, Parker, Robinson, Sinsel, Simmons, Stevenson of Wood, Stephenson of Clay, Stuart of Doddridge, Sheets, Soper, Taylor, Walker, Warder, Wilson—30.

Mr. Irvine moved that hereafter, until otherwise ordered, the Convention will meet at 2 o'clock, P. M., instead of half past three o'clock.

Mr. Lauck moved to lay the resolution on the table, and upon this question the yeas and nays were demanded, which demand being sustained, the motion was rejected—yeas 16, nays 24.

And, on motion of Mr. Irvine, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President,) Brumfield, Carskadon, Haymond, Harrison, Hagar, Hoback, Lauck, Sinsel, Stevenson of Wood, Stuart of Doddridge, Sheets, Taylor, Warder, Wilson—16.

**NAYS**—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Battelle, Chapman, Cook, Dering, Dolly, Hansley, Hall of Marion, Hubbs, Irvine, Lamb, Montague, McCutchen, Parsons, Powell, Parker, Paxton, Simmons, Stewart of Wirt, Soper, Van Winkle, Walker—24.

Mr. Stuart, of Doddridge, moved, as a substitute for the resolution of Mr. Irvine, that hereafter, until otherwise ordered, the Convention continue to meet at half past three o'clock, P. M., take a recess at 6 o'clock and meet again at 7 o'clock, which was disagreed to.

The question then being upon the adoption of the motion of Mr. Irvine, it was determined in the negative.

And, on motion of Mr. Parsons, the Convention adjourned.

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MONDAY, JANUARY 27, 1862.

The Convention met at 9 o'clock, A. M., and was called to order by the President.

Prayer by the Rev. Mr. Brooks, member of the Convention.  
The Journal of yesterday was read and approved.

Mr. Battelle submitted the following proposition, which was laid on the table, referred to the Committee on Fundamental and General Provisions, and ordered to be printed:

"1. No slave shall be brought into this State for permanent residence, after the adoption of this Constitution.

2. All children born of slave parents in this State, on and after the fourth day of July, eighteen hundred and sixty-five, shall be free. And the Legislature may provide by general laws for the apprenticeship of such children during their minority, and for their subsequent colonization."

Mr. Brown, of Kanawha, submitted the following additional Section, to the Report of the Committee on the Judiciary, to be inserted after the 5th Section of said report, which was laid on the table, and ordered to be printed.

"The Circuit Courts shall, except in cases confided exclusively by this Constitution to some other tribunal, have original and general jurisdiction of all cases at law, where the amount in controversy, exclusive of costs, exceeds twenty dollars, and of all cases in equity, and of all crimes and misdemeanors, and of all controversies concerning the title or bounds of land, the probate of wills, the appointment or qualification of personal representatives, guardians, committees or curators, and concerning mills, mill dams, roads, ways and ferries, and in cases of *habeas corpus*, *mandamus* and *prohibition*, and cases involving freedom, or the Constitutionality of a law, or the right of a corporation, or of a county, or of the supervisors thereof, to levy tolls or taxes.

The Circuit Courts shall have appellate jurisdiction in all cases, civil and criminal, wherever judgment has been rendered by any inferior Court or other tribunal, or by a Justice of the Peace, except that no appeal, writ of error, or supercedeas shall lie where the judgement is rendered by a Justice of the Peace, in assumpsit, debt, detinue or trover, and is for less than ten dollars.

And the said Circuit Courts shall have jurisdiction of all such other matters as shall be prescribed by law."

The question being upon the adoption of the 13th Section of the Report of the Committee on the Judiciary Department,

Mr. Harrison moved to amend the same by inserting after the word "Legislature," in the 103d line, the following: "for malfeasance, corruption, incompetency, neglect of duty, or on conviction of any infamous offence," which was agreed to.

And the question then being upon the adoption of the 13th Section, as amended, it was decided in the affirmative.

The 14th Section was then read and adopted.

Upon the reading of the 15th Section,

Mr. Soper moved to pass by so much thereof as relates to the Attorney for the State, which was agreed to.

Mr. Soper then moved to amend the same by striking out the word "eight" in the 117th line, and inserting "four," in lieu thereof.

Mr. Mahon moved to amend the amendment by inserting the word "six" instead of "four," and the question being upon the amendment to the amendment, it was rejected.

The amendment of Mr. Soper was then adopted.

The 15th Section, so far as it relates to Clerks, was then adopted, as amended.

The 16th Section was read, when

Mr. Van Winkle moved to amend the same by inserting before the word "election" the word "regular," and to strike out all after the word "State," in the 131st line, which was agreed to; after which the 16th Section, as amended, was adopted.

The 17th Section being read,

Mr. Van Winkle moved to pass by the same for the present, which was agreed to.

Upon the reading of the 18th Section Mr. Brown, of Kanawha, moved to pass it by, the substance of it having heretofore been adopted in another report, which was agreed to.

On motion of Mr. Battelle, the Report of the Committee on Education was taken up for consideration.

The first Section being read,

Mr. Van Winkle moved that it be considered by clauses, which was agreed to.

The first and second clauses were thereupon adopted.

Upon the reading of the third clause,

Mr. Van Winkle moved to strike out the whole of it.

Mr. Brown, of Kanawha, moved to amend the amendment, by striking out the words, "or other corporation," in the 6th line.

Pending which, the Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

The amendment offered by Mr. Brown, of Kanawha, was disagreed to.

Mr. Stevenson, of Wood, then moved to pass by the further con-

consideration of the third clause, and the amendment thereto, for the present, which was rejected.

Mr. Van Winkle's motion to strike out the whole of the third clause was then put and decided in the affirmative.

The fourth clause was then read, and

The question being upon the adoption of the said clause, the word "a" was inserted before the word "will," in the 9th line, by general consent.

Mr. Brown, of Kanawha, moved to amend the same by inserting, after the word "heir," in the 10th line, the words "and of all escheated lands," which was adopted; whereupon, the fourth clause, as amended, was adopted.

Upon the reading of the fifth clause,

Mr. Brown, of Kanawha, moved to strike out the whole of the clause.

Mr. Battelle moved to amend the amendment by striking out, in the 10th line, the words "are now, or that" and also, in the 11th line, the word "hereafter," and the words "property or."

Pending the consideration of which,

On motion of Mr. Hagar, the Convention adjourned.

## TUESDAY, JANUARY 28, 1862.

The Convention met at 9 o'clock, A. M., and after prayer by the Rev. Mr. West, member of the House of Delegates, the minutes were read, corrected and approved.

Mr. Battelle modified the amendment, which he offered last night, to the amendment of Mr. Brown, of Kanawha, so as to insert after the word "Corporation," at the end of the clause, in the 12th line, the words, "hereafter created."

Mr. Battelle's amendment was then adopted.

The question then being upon the adoption of the motion of Mr. Brown, of Kanawha, to strike out the fifth clause, the yeas and nays were demanded, which demand being sustained, the motion was rejected—yeas 19, nays 25.

And, on motion of Mr. Hagar, the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Chapman, Carskadon, Dolly, Hall of Marion, Hubbs, Lamb, Montague, McCutchen, O'Brien, Robinson, Rufner, Stansel, Stephenson of Clay, Soper, Tayler, Van Winkle—19.

Drumfield, Battelle, Caldwell, Dille, Hansley, Haymond, Harrison, Hager, Hoback, Irvine, Lauck, Mahon, Parsons, Powell, Parker, Pomeroy, Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Sheets, Trainer, Walker, Warder, Willson—25.

Upon the reading of the sixth clause,

Mr. Stuart, of Doddridge, offered to amend the same, by inserting, in the 13th line, after the word "duty," the words, "fines and forfeitures," which was disagreed to.

Mr. Soper then offered to amend the same by inserting after the word "duty," the words, "one twentieth of one per cent on the taxable property of this State, and such other monies as may be provided by law."

Mr. Lamb asked for a division of the amendment, and the question being first put upon the first clause of the amendment, it was rejected.

Mr. Lamb then moved to substitute for the balance of the amendment of Mr. Soper the following, "and such sums as may from time to time be appropriated by the Legislature for that purpose."

And the question being upon the adoption of the substitute, it was decided in the affirmative, whereupon the sixth clause, as amended, was adopted.

The balance of the first sentence was then read, and by general consent, the word "increase" in the 17th line, was stricken out, and the word "interest" inserted.

Mr. Brown, of Kanawha, moved further to amend the same by striking out the word "annual," in the 16th line, and the words, "sacredly devoted and" in the 17th line, and insert, "annually," before the word "applied," in the 17th line, which was agreed to.

Mr. Van Winkle moved further to amend the same, by inserting, in the 17th line, after the word "thereof," the words, "after it amounts to one hundred thousand dollars," which was rejected.

The concluding clause of the first sentence was then adopted, as amended.

The second sentence was then read, and the word increase, in the 19th line, was stricken out, and the word "interest," inserted.

Mr. Van Winkle moved to strike out the second sentence, which was disagreed to.

The Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

The question being upon the adoption of the 1st Section, as amended, it was decided in the affirmative.

The 2d Section was then taken up by clauses.

Mr. Soper moved to amend the first clause by striking out, in the 22d line, the words, "by all suitable means," which was disagreed to.

The first clause was then adopted.

Mr. Battelle moved that the second clause be amended by striking out the words "increase from," and inserting "interest of," which was agreed to.

Mr. Soper moved to amend the third clause by inserting after the word "forfeitures," in the 27th line, the words "not otherwise appropriated in this article," which was adopted.

On motion of Mr. Lamb, the word recoveries," in the 27th line, was stricken out, after which the third clause, as amended, was adopted.

The fourth clause was then read and adopted.

Mr. Soper moved to amend the fifth clause, in the 35th line, by striking out "twenty-one," and inserting "sixteen," which was disagreed to.

Mr. Brown, of Kanawha, moved to amend the same by inserting after the word "sum," in the 30th line, the words, "not to exceed fifteen per cent on the State revenue."

Mr. Hervey moved to amend the amendment by inserting "twenty-five" instead of "fifteen," which was rejected.

The question recurring upon the amendment of Mr. Brown, it was determined in the negative.

Mr. Brown, of Kanawha, moved to amend the said clause by inserting after the word "sum," in the 30th line, the words "not to exceed ten per cent on the State revenue."

Pending which,

On motion of Mr. Pomeroy, the Convention adjourned.

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### WEDNESDAY, JANUARY 29th, 1862.

The Convention met at 9 o'clock, A. M., and after prayer by Rev. Mr. Pomeroy, member of the Convention, the Minutes were read and approved.

The question being upon the adoption of the amendment, offered last night by Mr. Brown, of Kanawha, to insert, after the word "sum," in the 30th line of the Report of the Committee on Education, the words "not to exceed ten per cent on the State revenue," the question was put and decided in the affirmative.

On motion of Mr. Battelle, the Rule requiring Reports to be taken up Section by Section, was agreed to.

Mr. Battelle then offered the following substitute for the 2d, 3d and 4th Sections of the Report of the Committee on Education.

"2. The Legislature shall provide, as soon as may be practicable, for the establishment of a thorough and efficient system of free schools. They shall provide for the support of such schools by appropriating thereto the interest of the invested School Fund; the nett proceeds of all forfeitures, confiscations and fines accruing to this State under the laws thereof; and by general taxation on persons and property, or otherwise. They shall also provide for raising in each township, by the authority of the people thereof, a sum not less than one-half the amount required for the support of free schools therein."

And the question being upon the adoption of the substitute,

Mr. Powell moved to amend the same by inserting after the word "practicable," in the second line, the words, "within five years," which was disagreed to.

Mr. Van Winkle moved to amend the same by striking out the last sentence, and inserting the following: "The sum annually appropriated shall be distributed among the several townships of the State in proportion to the sums levied by each, independently of the State tax, for the support of such school within its boundaries," which was disagreed to.

Mr. Battelle's substitute for the 2d, 3d and 4th Sections of said Report was adopted.

Mr. Battelle then moved the adoption of the 5th Section.

Mr. Soper moved to amend the same by inserting, at the beginning thereof, the words: "The Secretary of the State shall be the Superintendent of the free schools until," which was disagreed to.

The fifth Section was then adopted.

Upon the reading of the 6th Section,

Mr. Van Winkle moved to transfer the words "whenever it may be practicable to do so," from the 71st line to the end of the 69th line, which was agreed to.

Mr. Van Winkle moved further to amend the same by striking out, in the 70th line, the word "establishment," and inserting the word "education," and, in the 71st line, to strike out the words "Institutes for," which motion was adopted.

Mr. Battelle, by general consent, moved to amend the 1st Section, by inserting after the word "specified," in the 5th line, the following: "the revenues accruing from any stock, not pledged to the Sinking Fund, hereafter acquired by this State in any bank; and the proceeds of the sale of such stock, if the same be sold."

And the question being upon the adoption of said amendment, it was determined in the affirmative.

Mr. Battelle then moved that the Report of the Committee on Education, as amended be laid on the table and printed, which was agreed to.

Mr. Dering submitted the following resolution:

*Resolved*, That after this day no member of this Convention shall be permitted to speak more than twice upon the same question, and he shall not speak longer than ten minutes the first time and five minutes the last time.

And the question being upon the adoption of the resolution, the yeas and nays were demanded, the demand sustained, and the resolution was adopted—yeas 28, nays 19.

And, on motion of Mr. Ruffner, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Preston, Brumfield, Chapman, Caldwell, Cook, Dering, Dille, Hansley, Hall of Marion, Hubbs, Hervey, Hoback, Irvine, Montague, McCutchen, O'Brien, Powell, Parker, Ruffner, Sinsel, Simmons, Stephenson of Clay, Stuart of Doddridge, Sheets, Taylor, Warder, Wilson—28.

NAYS—Messrs. Brown of Kanawha, Brooks, Battelle, Carskadon, Dolly, Haymond, Harrison, Hagar, Lamb, Lauck, Mahon, Pomeroy, Robinson, Stevenson of Wood, Stewart of Wirt, Soper, Trainer, Van Winkle, Warder—19.

Mr. Stuart, of Doddridge, moved to take up the third Report of the Committee on the Legislative Department, and the motion was adopted.

Mr. Van Winkle moved to amend the 2d Section, by striking out the word "forty-seven," in the 2d line, and insert "fifty-four."

The usual hour having arrived, the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Simmons submitted the following resolution, which was adopted:

*Resolved*, That any member failing to confine himself strictly to the subject in debate shall be immediately called to order by the President, and shall not be permitted to proceed in his own way.

The question then being the amendment of Mr. Van Winkle, offered this morning,

Mr. Lamb asked for a division; and the question being first put upon striking out the word "forty-seven," it was rejected.

Mr. Hervey then moved to amend the 1st line by striking out the word "eighteen," and inserting "twenty-two;" and upon this question, the yeas and nays were demanded, the demand sustained, and the amendment rejected—yeas 8, nays 38.

And, on motion of Mr. Carskadon, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Dering, Hall of Marion, Hubbs, Hervey, Mahen, Taylor, Walker—8.

**NAYS**—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, Caldwell, Carskadon, Cook, Dille, Dolly, Hansley, Haymond, Hagar, Hoback, Irvine, Lamb, Lauck, Montague, McCutchen, O'Brien, Parsons, Powell, Parker, Pomeroy, Robinson, Binsel, Stevenson of Wood, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Smith, Trainer, Van Winkle, Warder, Wilson—83.

Mr. Hervey moved to amend the second Section by adding after the word "contained," in the 3d line, the following: "but after the first election, no two Senators shall be elected in the same county," which was adopted.

And, on motion of Mr. Lamb, the 2d Section was adopted as amended.

The 3d, 4th, 5th, 6th, 7th, 8th, 9th and 10th Sections were then respectively adopted.

On motion of Mr. Walker, the 11th Section was passed by for the present.

The 12th, 13th, 14th, and 15th Sections were then read and adopted.

On motion of Mr. Van Winkle, the 16th Section was passed by for the present.

Mr. Van Winkle then offered the following additional Section to said Report, which was rejected:

"The Legislature may provide for dividing any county having more than one delegate, into as many districts as delegates, each of which shall elect one delegate, but such districts shall be equal, as nearly as possible, in white population."

And, on motion of Mr. Caldwell, the Convention adjourned.

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#### THURSDAY, JANUARY 30, 1862.

The Convention met at 9 o'clock, A. M.

Prayer by Rev. Mr. Brooks.

The Journal was read and approved.

Mr. Van Winkle, from the Committee on Fundamental and General Provisions, submitted the Second Report of said Committee, which was laid on the table and ordered to be printed.

#### SECOND REPORT OF THE COMMITTEE ON FUNDAMENTAL AND GENERAL PROVISIONS.

The Committee on Fundamental and General provisions respectfully report the following additional provisions, and recommend their insertion in the Constitution,

By order of the Committee,

P. G. VAN WINKLE, *Chairman.*

All officers elected or appointed under removed from office for misconduct, incompetence, or neglect of duty, in such manner as may be prescribed by law; and unless so removed, shall continue to discharge the duties of their respective offices, until their successors are elected or appointed and qualified.

The terms of all State and County officers, and of the members of both Houses of the Legislature, not elected or appointed to fill a vacancy, shall, unless herein otherwise provided, begin on the day of next succeeding their election. All elections and appointments to fill vacancies shall be for the unexpired term. All vacancies in elective offices shall be filled by special elections.

The privilege of the writ of *habeas corpus* shall not be suspended, except when, in time of invasion, insurrection or other public danger, the public safety may require it. No person shall be held to answer for treason, felony or other crime, unless on presentment or indictment of a grand jury. No bill of attainder, *ex post facto* law, or law impairing the obligation of a contract, shall be passed.

No law abridging freedom of speech or of the press shall be passed, but the Legislature may provide for the restraint and punishment of the publishing and vending of obscene books, papers and pictures, and of libel and defamation of character, and for the recovery, in civil actions, by the aggrieved party, of suitable damages for such libel and defamation. Attempts to justify and uphold an armed invasion of the State, or an organized insurrection therein, having in view the overthrow of the government thereof, during the continuance of such invasion or insurrection, by publicly speaking, writing or printing, or by publishing or circulating such writing or printing, may be, by law, declared a misdemeanor, and punished accordingly.

Private property shall not be taken for public use without just compensation. No person, in time of peace, shall be deprived of life, liberty or property without due process of law. The military shall be subordinate to the civil power.

The right of the citizens to be secure in their houses, persons, papers and effects, against unreasonable searches and seizures, shall not be violated. No warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons and things to be seized.

In suits at common law, where the value in controversy exceeds twenty dollars, the right of trial by jury, unless waived by the parties, shall be preserved. No fact tried by a jury, shall be other-

wise re-examined in any case than according to the rules of the common law.

The trial of crimes and misdemeanors, unless herein otherwise provided, shall be by jury, and shall be held publicly, and without unreasonable delay, in the county where the alledged offence was committed, unless, upon petition of the accused, and for good cause shown, or in consequence of the existence of war or insurrection in such county, it is removed to some other county. In all such trials the accused shall be informed of the character and cause of the accusation, and be confronted with the witnesses against him, and shall have the assistance of counsel for his defence, and compulsory process for obtaining witnesses in his favor.

In all criminal prosecutions, the jury shall be the judges of both the law and the fact. In prosecutions and civil suits for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libellious is true, and was published with good motives, and for justifiable ends, the verdict shall be for the defendant.

Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishment inflicted. Penalties shall be proportioned to the character and degree of the offence. No person shall be compelled to be a witness against himself, or be twice put in jeopardy for the same offence. No citizen shall be subjected to corporal punishment, except to death by hanging, for treason, murder, rape or arson. All prisoners shall be bailable by sufficient sureties, except in capital cases where the proof is evident or the presumption great.

The enumeration in this Constitution of certain rights and privileges shall not be construed to impair or deny others retained by, or inherent in, the citizens of the State.

Such parts of the common law, and of the laws of the State of Virginia, as are in force within the boundaries of the State of West Virginia when this Constitution goes into operation, and are not repugnant thereto, shall be and continue, the law of this State, until altered or repealed by the Legislature. Nothing herein contained shall affect grants of lands, legally issued by the Commonwealth of Virginia before the seventeenth day of April, in the year one thousand eight hundred and sixty-one, or subsequently thereto, by authority of the restored government thereof, or any inchoate or imperfect right to such grants. All civil and criminal suits and proceedings pending in the County or Circuit Courts theretofore held within the said boundaries when this Constitution goes

into operation, shall be docketed and thereafter proceeded in in the Circuit Court of the proper county; and all such suits and proceedings then pending in the Supreme Court of Appeals of the State of Virginia, if the defendant resides within the said boundaries, and the plaintiff is entitled to prosecute in this State, shall be docketed, and thereafter proceeded in, in the Supreme Court of Appeals thereof.

The 11th Section of the Report of the Committee on the Legislative Department, which was passed by last night, was taken up,

Mr. Walker moved to amend the same by striking out all after the word "for" in the 99th line, and insert the following: "the first term to be a resident of Raleigh, for the second term of Wyoming, for the third term of Raleigh, for the fourth term of Wyoming, and for the fifth term of McDowell county," and so in each case, in rotation."

On motion of Mr. Lamb, the 11th Section was then adopted, as amended.

Mr. Caldwell moved to take up the additional Section to said Report, heretofore offered by him, and the motion was agreed to.

Mr. Caldwell then moved, as a substitute for said Section, the amendment thereto, offered by Mr. Van Winkle on a former day.

The said substitute was then read.

On motion of Mr. Brown, of Preston, all after the word "law," in the 12th line, was stricken out.

Mr. Stuart, of Doddridge, moved further to amend the same by striking out the word "banking," in the 2d line, and inserting after the word "excepting," in the 3d line, the words "banks of circulation" and insert, in the 8th line, after the word "view," the words "the issuing of bills to circulate as money or," which amendments were adopted.

Mr. Stevenson, of Wood, moved further to amend the same by inserting after the word "passed," in the 9th line, the following: "except where the object cannot be attained under such general laws," which was agreed to.

Mr. Brown, of Kanawha, moved further to amend the same, by striking out the whole of the last sentence, which was adopted.

Mr. Stuart, of Doddridge, then offered to amend the same, by adding at the end of the Section, the following: "But no company or association, authorized by this Section, shall issue bills to circulate as money," which amendment was adopted.

Mr. Brown, of Kanawha, offered the following additional amendment to said Section: "And no charter of incorporation shall be

granted under such general laws, unless the right be reserved to alter or amend the same at the pleasure of the Legislature, to be declared by general laws."

And the question being upon this amendment, the motion was decided in the affirmative.

Mr. Soper then submitted the following amendment to said Section: "Dues from corporations shall be secured by such individual liability of the corporators, and other means, as may be prescribed by law.

The Convention then took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

Mr. Soper addressed the Convention upon his amendment, and his time having expired,

Mr. Battelle moved that the Rules be suspended in order to allow him to conclude his remarks; and upon this question the yeas and nays were demanded, ordered, and resulted—yeas 11, nays 27.

The names of those voting in the affirmative were:

YEAS—Messrs. Battelle, Hagar, Lamb, Lauck, Mahon, Parsons, Pomeroy, Robinson, Stevenson of Wood, Stewart of Wirt, Van Winkle—11.

The names of those voting in the negative were:

NAYS—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brumfield, Chapman, Caldwell, Dering, Dille, Dolly, Hall of Marion, Haymond, Hubbs, Hervey, Hoback, Irvine, Montague, McCutchen, Parker, Sinsel, Stephenson of Clay, Sheets, Soper, Taylor, Trainer, Walker, Wilson—26.

So the motion was rejected.

The question then being upon the amendment of Mr. Soper,

Mr. Lamb moved to amend the same by inserting after the word "corporations," the words "to citizens of this State," which was rejected.

And the question recurring upon the amendment of Mr. Soper, it was determined in the negative.

Mr. Soper then submitted a substitute for said additional Section, which was rejected.

Mr. Van Winkle moved further to amend said Section by striking out the words "or other," in the 7th line, which was agreed to.

The said additional Section, as amended, was then adopted.

Mr. Lamb then moved to lay the different Reports of the Committee on the Legislative Department on the table, and have them printed, as amended, which was agreed to.

On motion of Mr. Van Winkle, the Report of the Committee on Finance and Taxation was made the order of the day for tomorrow morning at 9 o'clock, and each day thereafter until disposed of.

On motion of Mr. Van Winkle, the Report of the Committee on County Organization was taken up for further consideration.

Mr. Caldwell then offered the following additional Section thereto:

The Recorder shall have, under such regulations as may be prescribed by law, authority to admit wills to probate, grant letters of administration, and appoint guardians, with the right of appeal, to any party aggrieved, to the Circuit Court."

Pending the consideration of which,

On motion of Mr. Caldwell, the Convention adjourned.

#### FRIDAY, JANUARY 31, 1862.

The Convention met at 9 o'clock, A. M.

Prayer by Rev. Mr. Musgrave, of Wetzel county.

The Journal of yesterday was read and approved.

Mr. Brown, of Preston, offered the following resolution:

*Resolved*, That hereafter no member shall be permitted either to speak or vote outside of the bar.

And the question being upon the adoption of the resolution, it was determined in the negative.

Mr. Taylor submitted the following resolution:

*Resolved*, That this house hereafter take a recess from 12 o'clock, M., till 3 o'clock, P. M.

And the question being upon the adoption of the resolution, it was decided in the negative.

Mr. Dering presented a petition of various citizens of Monongalia county, praying that this Convention insert in the Constitution, to be made by it, a provision prohibiting the Legislature from appropriating money for the construction of internal improvements; and limiting the per diem of members of the Legislature, after the first session, to thirty days, which was read and laid on the table.

Mr. Caldwell submitted the following substitute for the additional Section to the Report of the Committee on County Organization, offered by him last night, which was laid on the table, and ordered to be printed;

"The Recorder, in addition to the duties incident to the recording of deeds and other writings, the recording of inventories and other papers relating to estates, the registering of births, deaths and marriages, and the issuing of marriage licenses, shall have authority, under such regulations as may be prescribed by law, to receive proof of wills, and admit them to probate, appoint and qualify personal representatives, guardians, committees and curators, with the right of appeal, to any party aggrieved, to the Circuit Court of the county."

The Report of the Committee on Taxation and Finance, was then taken up, as the order of the day.

Mr. Paxton, Chairman of the Committee, asked the general consent of the Convention, to insert, in the first Section, after the word "property," in the 6th line, the word "used," which was assented to.

Mr. Brown, of Kanawha, moved to amend the 1st Section, by striking out the word "and," in the second line, and insert "on," and to strike out all after the word "personal," in the second line, to the word "but," in the sixth line, and insert in the blank the words "according to its value;" and the question being upon the adoption of the amendment, the yeas and nays were demanded, ordered, and resulted—yeas 17, nays 30.

The names of those voting in the affirmative were:

YEAS—Messrs. Brown of Kanawha, Chapman, Carskadon, Cook, Hansley, Hall of Marion, Harrison, Irvine, Montague, Robinson, Stephenson of Clay, Stuart of Doddridge, Smith, Taylor, Walker, Warder, Wilson—17.

The names of those voting in the negative were:

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Caldwell, Dering, Dille, Dolly, Haymond, Hubbs, Hervey, Hoback, Hager, Lamb, Lauck, Mahon, McCutchen, O'Brien, Parsons, Parker, Paxton, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle—30.

So the amendment was rejected.

And, on motion of Mr. Paxton, the 1st Section was adopted.

Mr. Smith then offered the following additional Section to said Report, to be inserted after the 1st Section:

"The Legislature may levy a tax on incomes, salaries, and licenses, but no tax shall be levied on property from which any income so taxed is derived, or on the capital invested in the trade or business, in respect to which the income so taxed is issued."

Mr. Van Winkle moved to substitute for said additional Section the following:

"No tax shall be levied on licenses, salaries, or incomes, but the property used in any business or calling shall be taxed as other

property. Nothing herein contained shall be construed to prevent the county authorities from issuing licenses, and charging such reasonable fees for the same as may be allowed by general laws."

The Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention reassembled.

And the question being upon the adoption of the substitute of Mr. Van Winkle, the yeas and nays were demanded, ordered, and resulted—yeas 17, nays 26.

The names of those voting in the affirmative were:

YEAS—Messrs. Brumfield, Battelle, Haymond, Hubbs, Lamb, Lauck, Mahon, Parker, Paxton, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Soper, Trainer, Van Winkle—17.

The names of those voting in the negative were:

NAYS—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brooks, Chapman, Carskadon, Cook, Dolly, Hall of Marion, Harrison, Hoback, Hagar, Irvine, Montague, McCutchen, O'Brien, Parsons, Robinson, Stephenson of Clay, Stuart of Doddridge, Sheets, Smith, Taylor, Walker, Warder, Wilson—26.

So the substitute was rejected.

The question then being upon the additional Section, offered by Mr. Smith, the yeas and nays were demanded, ordered, and resulted—yeas 21, nays 27.

The names of those voting in the affirmative were:

YEAS—Messrs. John Hall, (President,) Brown of Kanawha, Chapman, Carskadon, Cook, Dolly, Hansley, Hall of Marion, Harrison, Hagar, Hoback, Irvine, McCutchen, Robinson, Stephenson of Clay, Stuart of Doddridge, Smith, Taylor, Walker, Warder, Wilson—21.

The names of those voting in the negative were:

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Caldwell, Dering, Dille, Haymond, Hubbs, Hervey, Lamb, Lauck, Montague, Mahon, O'Brien, Parsons, Parker, Paxton, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle—27.

Upon the reading of the 2d Section,

Mr. Smith moved to amend the same, by striking out the words "fifty cents nor more than," in the 9th line, which was disagreed to.

The 2d Section was then adopted.

The 3d and 4th Sections were then read and adopted.

The 5th Section being read,

Mr. Lamb moved to amend the same, by inserting after the word "revenue," in the 23d line, the words "to erect necessary public buildings."

Mr. Brown, of Kanawha, moved to amend the same by adding to

the amendment, the words—"or for works of internal improvements."

Pending the consideration of which,

On motion of Mr. Lauck, the Convention adjourned.

### SATURDAY, FEBRUARY 1st, 1862.

The Convention met at 9 o'clock, A. M., and after prayer by Rev. Mr. Simmons, the Journal was read and approved.

Mr. Brown, of Preston, presented two petitions from various citizens of Preston county, praying that the Convention insert a provision in the new State Constitution, requiring, among other things, that the right of suffrage shall not be exercised by any one who shall not have paid the State and county tax with which he may have been assessed, which were read and laid on the table.

Mr. Hagar presented the resignation of Mr. James S. Cassady as a member of this Convention, and, on motion of Mr. Pomeroy, the said resignation was accepted.

Mr. Hagar then presented the credentials of Mr. E. W. Ryan, as a delegate for the county of Fayette, to supply the vacancy caused by the resignation of Mr. Cassady, which were referred to the Committee on Credentials.

Mr. Taylor offered the following resolution:

*Resolved*, That the Committee on Printing and Expenditures estimate the amount necessary to pay the members of this Convention mileage, and present it to the Legislature for their action.

And the question being upon the adoption of the resolution,

Mr. Van Winkle moved the indefinite postponement of the same, which was agreed to.

The President stated that the question was upon the amendment, offered last night by Mr. Brown, of Kanawha, to the amendment of Mr. Lamb, to the 5th Section of the Report of the Committee on Taxation and Finance.

Pending the consideration of which, the Convention, at the usual hour, took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

And the question being upon the amendment of Mr. Brown, of

Kanawha, to insert, after the proposed amendment of Mr. Lamb, to the 5th Section of said Report, the words—"or for works of internal improvement," the yeas and nays were demanded, and the demand being sustained, the amendment was rejected—yeas 23, nays 25.

And, on motion of Mr. Dering, the vote was recorded as follows:

YEAS—Messrs. John Hall, (President), Brown of Kanawha, Chapman, Carskadon, Cook, Dolly, Hansley, Haymond, Hoback, Hagar, Irvine, Montague, McCutchen, Parker, Robinson, Ruffner, Sinsel, Stephenson of Clay, Stuart of Doddridge, Smith, Tayler, Walker, Warder—23.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Caldwell, Dering, Dille, Harrison, Hubbs, Hervey, Lamb, Lauck, Mahon, O'Brien, Parsons, Paxton, Pomeroy, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle, Wilson—25.

Mr. Lamb then withdrew his amendment to said Section.

The question then being upon the adoption of the 5th Section, it was determined in the affirmative.

The 6th Section being read,

Mr. Stuart, of Doddridge, moved to amend the same by striking out the words "corporation or person," in the 27th line, pending the consideration of which,

And, on motion of Mr. Van Winkle, the Convention adjourned.

## MONDAY, FEBRUARY 3d, 1862.

The Convention met at 9 o'clock, A. M., and after prayer by the Rev. Mr. Battelle, the Minutes were read and approved.

Mr. Brown, of Kanawha, moved that the Committee on Credentials be allowed to submit a verbal report in the case of Mr. E. W. Ryan, who claims a seat in this Convention, as the delegate for Fayette county, to supply the vacancy caused by the resignation of Mr. Cassady, which motion was agreed to.

Mr. Sinsel, Chairman of said Committee then reported that a majority of the Committee were of opinion that Mr. Ryan is not entitled to a seat in this Convention.

Mr. Stuart, of Doddridge, and Mr. Parker, a minority of said Committee reported that in their opinion Mr. Ryan is entitled to a seat in this Convention.

Mr. Van Winkle moved that the credentials of Mr. Ryan be referred back to said Committee with instructions to report in writing all the facts of the case.

Mr. Stuart, of Doddridge, moved to amend the motion of Mr. Van Winkle by the following:

*Resolved*, That this Convention disagree with the Report of the Committee on Credentials and that Mr. Ryan be admitted as a member of this Convention for the county of Fayette.

Mr. Hall, of Mason, by consent, (Mr. Battelle in the Chair) moved that Mr. Ryan be heard in his own behalf upon the floor of the Convention, which was agreed to.

And the question then being upon the adoption of the resolution, offered by Mr. Stuart, of Doddridge, as an amendment to the motion of Mr. Van Winkle, the motion was put, and the resolution was adopted.

Mr. Ryan appeared, and the oath, embraced in the ordinance for the re-organization of the State Government, was administered to him, and he took his seat in the Convention.

The President then stated that the question, when the Convention adjourned on Saturday, was on the motion of Mr. Stuart, of Doddridge, to strike out the words "corporation or person," in the 27th line of the Report of Committee on Taxation and Finance,

Pending the consideration of which, the hour of 12½ o'clock arrived, and the Convention took a recess.

3½ O'CLOCK, P. M.

The Convention re-assembled.

And the question being upon the amendment of Mr. Stuart, of Doddridge, to strike out the words "corporation or person," in the 27th line of said Report, the yeas and nays were demanded and the demand being sustained, the amendment was rejected—yeas 21, nays 22.

And, on motion of Mr. Dering, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Chapman, Cook, Dolly, Hansley, Hoback, Hagar, Irvine, Montague, McCutchen, Parker, Robinson, Ruffner, Ryan, Sinsel, Stephenson of Clay, Smith, Taylor, Walker, Warder—21.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Dering, Dille, Haymond, Harrison, Hubbs, Hervey, Lamb, Mahon, O'Brien, Parsons, Paxton, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Van Winkle, Wilson—22.

Mr. Haymond submitted the following substitute for the 6th Section of said Report:

"The Legislature of West Virginia shall have the right and power to borrow from time to time, as may be wanted for internal-improvements, the sum of four millions of dollars, which sum is not to be exceeded at any time, except in time of war or insurrection, but no loan shall be made until five years after the admittance of said State into the Union."

Mr. Soper moved to amend the same by adding thereto the

words "nor until it" shall have been authorized by a vote of the people of this State."

And the question being upon the amendment of Mr. Soper the yeas and nays were demanded, and the demand being sustained, the amendment was rejected—yeas 19, nays 24.

And, on motion of Mr. Dering, the vote was recorded as follows:

YEAS—Messrs. Brumfield, Battelle, Cook, Dering, Dille, Harrison, Hubbs, Hervey, Lamb, Mahon, O'Brien, Parsons, Paxton, Simmons, Stevenson of Wood, Stewart of Wirt, Soper, Van Winkle, Wilson—19.

NAYS—Messrs. John Hall, (President), Brown of Preston, Brown of Kanawha, Brooks, Chapman, Dolly, Hansley, Haymond, Hoback, Hagar, Irvine, Montague, McCutchen, Parker, Robinson, Ryan, Sinsel, Stephenson of Clay, Stuart of Doddridge, Sheets, Smith, Taylor, Walker, Warder—24.

Mr. Van Winkle offered the following amendment to be added at the end of Mr. Haymond's substitute:

"The amount so borrowed shall be expended in equal sums in the several Senatorial Districts of the State."

And upon this question the yeas and nays were demanded, which demand being sustained, the amendment was rejected—yeas 16, nays 28.

And, on motion of Mr. Simmons, the vote was recorded as follows:

YEAS—Messrs. Battelle, Dering, Dille, Harrison, Hubbs, Hervey, Lamb, Parsons, Paxton, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle—16.

NAYS—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Chapman, Caldwell, Carskadon, Cook, Dolly, Hansley, Haymond, Hagar, Hoback, Irvine, Montague, McCutchen, O'Brien, Powell, Parker, Robinson, Ryan, Sinsel, Smith, Taylor, Walker, Warder, Wilson—28.

And pending the consideration of the substitute of Mr. Haymond, on motion of Mr. Dering, the Convention adjourned.

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## TUESDAY, FEBRUARY 4th, 1862.

The Convention met at 9 o'clock, A. M., and, after prayer by the Rev. Mr. Simmons, the Journal of yesterday was read and approved.

Mr. Battelle submitted the second Report of the Committee on Education, as follows, which was laid on the table and ordered to be printed.

The Committee on Education recommend the adoption of the following as a part of the Constitution.

G. BATTELLE, *Chairman.*

1. The right to enter upon or bring actions for the recovery of lands lying within this State, shall, for the term of twenty-one years next after this Constitution goes into operation, be limited to seven years next after the time when such right accrues or shall accrue; saving to persons of unsound mind or under the age of twenty-one years, the right to make such entry or bring such actions within one year after the removal of their respective disabilities, and not afterwards, notwithstanding the said seven years shall have expired; but no such action instituted previously to the time this Constitution goes into operation shall be affected by any of the provisions of this Section. After the expiration of the said term of twenty-one years the limitation of such entries and actions shall be prescribed by law.

2. All lands lying within this State which have not been entered for taxation, or upon which taxes have not been paid to the State of Virginia or this State for more than five years, shall be deemed and declared forfeited, and forever irredeemable, and such forfeiture shall not be released. No grant or patent for forfeited, waste or unappropriated lands, shall issue after this Constitution goes into operation, except upon surveys made according to law and duly returned to the land office previously thereto; but all such lands shall be publicly sold under decrees rendered by the Circuit Court for the county in which the same, or the greater part thereof, may lie, upon proceedings in the nature of proceedings *in rem* therein instituted, in such manner as shall be prescribed by law.

3. The money received for lands sold under the preceding Section, after deducting the costs and expenses of the proceedings and sale, shall be deposited in the treasury of the State. When forfeited lands are sold, the excess of the proceeds thereof deposited in the treasury as aforesaid, over the taxes and damages charged and chargeable thereto under the laws of the State of Virginia and of this State, shall be paid to the respective former owners thereof, who shall prove themselves entitled to such excess before the Circuit Court which decreed the sale of the same, by proceedings instituted in such Court within five years next after such sale, in such manner as shall be prescribed by law. Appeals from the decisions of Circuit Courts in such cases to the Court of Appeals shall be allowed if applied for within one year next after the decree of sale by or for any person claiming an interest in the land sold, as owner of any part thereof; but the proceedings of the Circuit Court leading to the sale of such lands shall not be otherwise re-examined or drawn in question in any Court of the State, unless fraud or collusion, or the actual payment of all taxes and damages,

charged and chargeable to the land sold, previously to the institution of the proceedings against the same, be alleged and proved by the claimant, and then only in the Court where such proceedings were had.

4. All money being the proceeds of forfeited, waste and unappropriated lands deposited in the treasury, and not reclaimed by the former owner as aforesaid, shall be carried to the credit of a separate fund, to be called the School Fund.

And the question being upon the amendment, offered last night by Mr. Haymond, as a substitute for the 6th Section of the Report of the Committee on Taxation and Finance, the yeas and nays were demanded, which demand being sustained, the substitute was rejected—yeas 22, nays 23.

And, on motion of Mr. Pomeroy, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Brown of Kanawha, Chapman, Cook, Dolly, Hansley, Haymond, Hoback, Hagar, Irvine, Montague, McCutchen, O'Brien, Robinson, Ryan, Sinsel, Stephenson of Clay, Stewart of Doddridge, Smith, Taylor, Walker, Warder—22.

**NAYS**—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Caldwell, Dering, Dille, Harrison, Hubbs, Hervey, Lamb, Mahon, Parsons, Powell, Pomeroy, Simmons, Stephenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle, Willson—23.

The 6th Section was then adopted.

The 7th Section being read Mr. Smith moved to strike out the whole Section.

Mr. Van Winkle moved to amend the amendment by striking out, in the 33d line of said Section, the words "by vote of its citizens or otherwise," and insert the following "unless by authority of a vote of a majority of its citizens voting at an election held for the purpose, after thirty days notice, subject to such general regulations as may be prescribed by law," which was agreed to.

The question then recurring upon the motion of Mr. Smith to strike out the whole Section, it was decided in the affirmative.

The 8th Section was then read, when Mr. Stuart, of Doddridge, moved to strike out the word "Bank," in the 41st line, and upon this question the yeas and nays were demanded, and the demand being sustained, the amendment was rejected—yeas 21, nays 23.

And, on motion of Mr. Stewart, of Wirt, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President) Brown of Kanawha, Brumfield, Chapman, Cook, Dolly, Hansley, Hoback, Haymond, Hagar, Irvine, Montague, McCutchen, Robinson, Ryan, Stephenson of Clay, Stuart of Doddridge, Smith, Taylor, Walker, Warder—21.

**NAYS**—Messrs. Brown of Preston, Brooks, Battelle, Caldwell, Dering, Dille, Harrison, Hubbs, Hervey, Mahon, Parsons, Powell, Parker, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle, Willson—23.

Mr. Stewart of Doddridge moved to strike out all after the word "Bank," in the 41st line, and the question being upon the adoption of this amendment, the yeas and nays were demanded, which demand being sustained, the motion was rejected—yeas 21, nays 24.

YEAS—Messrs. John Hall (President), Brown of Kanawha, Chapman, Cook, Dolly, Hansley, Haymond, Hoback, Hagar, Irvine, Montague, McOutchen, Robinson, Ryan, Sinsel, Stephenson of Clay, Stuart of Doddridge, Smith, Taylor, Walker—21.

NAYS—Messrs. Brown of Preston, Brooks, Brumfield, Battelle, Caldwell, Dering, Dille, Harrison, Hubbs, Hervey, Lamb, Mahen, O'Brien, Parsons, Powell, Pomeroy, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Trainer, Van Winkle, Wilson—24.

The Convention, at the usual hour, took a recess.

### 3½ O'CLOCK, P. M.

The Convention reassembled.

Mr. Smith moved to refer the Report of the Committee on Taxation and Finance back to said Committee, and that four additional members be appointed on said Committee.

Mr. Stuart, of Doddridge, moved to lay the whole subject of said Report on the table, which was agreed to.

Mr. Harrison then moved to take up the Report of the Committee on the Executive Department, which was adopted.

The 1st Section was read, and

On motion of Mr. Caldwell, the word "Commonwealth," in the first line, was stricken out, and the word "State" inserted.

And, on motion of Mr. Pomeroy, the first sentence of the first Section was adopted.

Mr. Lamb moved to amend the second sentence, by striking out all after the word "election," in the 4th line, to the end of the 6th line, which was agreed to.

Mr. Stuart, of Doddridge, moved further to amend the same by striking out the word "four," in the 3d line, and inserting "two."

Mr. Stephenson, of Wood, moved to amend the amendment by inserting the word "three," instead of "two."

Mr. Sinsel asked for a division; and the question being first put upon striking out "four," it was decided in the affirmative.

The question then recurring upon the amendment of Mr. Stephenson, of Wood, to fill the blank with "three," it was determined in the negative.

Mr. Stuart's, of Doddridge, amendment to fill the blank with the word "two" was adopted.

Mr. Powell moved further to amend the same, by striking out the words "first day of January," in the 3rd line, which was agreed to.

The second and third clauses were then adopted; after which the first Section, as amended, was adopted.

Upon the reading of the second Section,

Mr. Stuart, of Doddridge, moved to amend the same by striking out the words "a county forming a part of," which was agreed to.

Mr. Van Winkle moved to strike out the word "thirty," in the 10th line, and insert "twenty-five," which being put, was decided in the negative.

The 2d Section was then adopted.

The 3d Section being read,

Mr. Stuart, of Doddridge, moved to amend the same by striking out "two thousand five hundred," and inserting "two thousand."

Mr. Stevenson, of Wood, moved to amend the amendment by inserting "eighteen hundred," in lieu of "two thousand."

Mr. Sinsel, having asked for a division, the question was first upon striking out, which was agreed to.

The question then being upon the amendment of Mr. Stevenson, of Wood, to insert "eighteen hundred," the yeas and nays were demanded, and the demand being sustained the amendment was disagreed to—yeas 11, nays 30.

And, on motion of Mr. Powell, the vote was recorded as follows:

**YEAS**—Messrs. Brown of Preston, Dille, Hamsley, Haymond, Hubbs, Hoback, Parsons, Powell, Ryan, Stevenson of Wood, Walker—11.

**NAYS**—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Battelle, Chapman, Caldwell, Cook, Dering, Dolly, Harrison, Hervey, Hager, Irvine, Lamb, Robinson, Sinsel, Montague, McCutchen, Parker, Pomeroy, Simmons, Stephenson of Clay, Stuart of Doddridge, Sheets, Smith, Taylor, Trainer, Van Winkle, Warder, Wilson—30.

The question then being upon the amendment of Mr. Stuart, of Doddridge, to insert in the blank the words "two thousand," it was determined in the affirmative.

The 3rd Section, as amended, was then adopted.

And, on motion of Mr. Dolly, the Convention adjourned.

WEDNESDAY, FEBRUARY 5th, 1862.

The Convention met at 9 o'clock, A. M.

Prayer by Rev. Mr. Battelle.

Journal read and approved.

The question being upon the 4th Section of the Report of the Committee on the Executive Department, by general consent, the word "Commonwealth," wherever it occurs in the Report, was stricken out, and the word "State" inserted.

Mr. Battelle moved to amend said Section by striking out the words "and foreign," in the 22d line, which was disagreed to.

The 4th Section was then adopted.

The 5th, 6th and 7th Sections were also read and adopted.

Mr. Stuart, of Doddridge, moved to amend the 8th Section by striking out the word "compensation," in the 72d line, which was agreed to.

Mr. Hervey moved to amend said Section by inserting after the word "State," in the 70th line, the following: "who shall receive a salary of sixteen hundred dollars per annum."

Mr. Powell moved to amend the amendment by inserting "twelve hundred" in lieu of "sixteen hundred," which was disagreed to.

Mr. Stuart, of Doddridge, moved to amend the amendment by inserting "thirteen hundred," in lieu of "sixteen hundred," after which the amendment of Mr. Hervey, as amended, was adopted.

Mr. Stewart, moved to reconsider the vote by which the word "compensation," was stricken out, which was decided in the negative.

Mr. Smith then submitted the following substitute for the 8th Section and the amendment thereto:

"A Secretary of State, an Auditor and Treasurer, shall be elected by a joint vote of the Legislature, to hold their offices for the term of one year, and shall be allowed such compensation as may, from time to time be prescribed by law."

And the question being upon the adoption of the substitute, it was determined in the negative.

Mr. Hervey moved to amend the said Section by inserting, after the word "Treasurer," in the 70th line, the following: "Who shall receive a salary of fifteen hundred dollars per annum," which was disagreed to.

Mr. Stevenson, of Wood, then moved to amend the amendment by inserting "twelve hundred," in lieu of "fifteen hundred," which was disagreed to.

Mr. Powell moved to amend the amendment by inserting "fourteen hundred," and the question being put, it was decided in the affirmative, after which,

Mr. Hervey's amendment, as amended, was adopted.

Mr. Mahon moved to amend the amendment by inserting, after the word "Auditor," in the 71st line, the following: who shall receive a salary of eighteen hundred dollars per annum."

Mr. Stevenson, of Wood, moved to amend the amendment by inserting "fifteen hundred," in lieu of "eighteen hundred," and upon this question the yeas and nays were demanded, and the demand being sustained, the motion was adopted—yeas 35, nays 12.

And, on motion of Mr. Simmons the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brown of Kanawha, Brumfield, Battelle, Chapman, Carskadon, Cook, Dering, Dille, Dolly, Hansley, Haymond, Hubbs, Hervey, Hoback, Hagar, Irvine, Lamb, Montague, McCutchen, Parsons, Powell, Robinson, Ryan, Simmons, Stevenson of Wood, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Trainer, Walker, Warder, Wilson—35.

NAYS—Messrs. Brooks, Caldwell, Harrison, Lamb, Mahon, O'Brien, Pomeroy, Sinsel, Smith Tayer, Van Winkle, John Hall, (President)—12.

\* The amendment of Mr. Mahon, as amended, was then adopted.

Mr. Hervey offered the following amendment, to be added at the end of the Section:

"The powers and duties of the Secretary of the State, Treasurer and Auditor, shall be such as they now are, or may be hereafter prescribed by law," which was disagreed to.

The 8th Section as amended, was then adopted.

The 9th Section being read,

Mr. Van Winkle moved to strike out the entire Section.

Mr. Caldwell moved to amend the motion by passing by the Section for the present, which was disagreed to.

Mr. Van Winkle's motion was then adopted.

The 10th Section was then read and adopted.

Mr. Lamb moved to amend the 11th Section by striking out all from the word "officers," in the 86th line, to the end of the Section, and insert "but the Governor shall nominate, and by and with the advice and consent of the Senate, shall appoint, all officers above the rank of Colonel," which was adopted.

Upon the reading of the 12th Section,

Mr. Caldwell moved to strike out the same, which was adopted.

And, on motion of Mr. Lamb, the Report of the Committee on the Executive Department was laid on the table and ordered to be printed, as amended.

On motion of Mr. Brown, of Kanawha, the Report of the Commit-

tee on the Judiciary Department was taken up for further consideration.

Mr. Brown, of Kanawha, then submitted the following substitute for the additional Section to said Report, heretofore offered by him :

"The Circuit Courts shall have the supervision and control of all inferior tribunals, by *mandamus*, *prohibition* or *certiorari*. They shall also, except in cases confided exclusively by this Constitution to some other tribunal, have original and general jurisdiction of all matters whatsoever at law, where the amount in controversy, exclusive of costs, exceeds twenty dollars, and of all cases in equity, and of crimes and misdemeanors. They shall also have appellate jurisdiction in all cases civil and criminal, when an appeal, writ of error or supercedeas may be allowed to the judgment or proceedings of any inferior tribunal. And they shall also have such other jurisdiction, whether supervisory, original, appellate or concurrent, as may be prescribed by law."

Mr. Sinsel moved to amend the substitute by striking out the word "general" before the word "jurisdiction," and insert "concurrent," which was disagreed to.

The hour of 12½ o'clock having arrived, the Convention took a recess.

### 3½ O'CLOCK, P. M.

The Convention re-assembled.

The question being upon the adoption of the substitute of Mr. Brown, of Kanawha, for an additional Section to said Report, it was put and decided in the affirmative.

Mr. Stuart, of Doddridge, moved the adoption of the 2d Section of said Report, which had been heretofore passed by.

Mr. Stevenson of Wood, moved to amend the same by transferring the word "Clay" from the 17th line, to the end of the 18th line, which was disagreed to.

Mr. Van Winkle moved as a substitute for the 2d Section, instead of the Judicial Districts therein prescribed; the districts as laid down in the Senatorial apportionment; and the question being upon the adoption of this substitute, it was determined in the negative.

The 2d Section was then adopted.

Mr. Lamb offered the following additional Section to said Report, which was adopted.

"The Legislature may establish Courts of limited jurisdiction within any city of the State."

Mr. Brown, of Kanawha, then moved to lay the Report of the Committee on the Judiciary Department on the table, and that it be printed as amended, which was agreed to.

On motion of Mr. Van Winkle, the Report of the Committee on County Organization was taken up for further consideration.

Mr. Van Winkle then offered to amend the 8th Section thereof by inserting at the end of the first sentence thereof the following: "Jurisdiction of all misdemeanors and breaches of the peace, punishable by a fine not exceeding ten dollars or imprisonment for not more than thirty days, may be by law vested in Justices of the Peace."

And, the question being put upon this amendment, it was decided in the affirmative.

Mr. Van Winkle submitted the following additional Section to said Report:

"Either party to a civil suit brought before a Justice of the Peace, when the value in controversy or the damages claimed exceeds twenty dollars, and the defendant in such cases of misdemeanor or breach of the peace as may by law be cognizable by a single Justice, when the penalty is imprisonment or a fine exceeding five dollars, shall be entitled to a trial by six Jurors, under such regulations as may be prescribed by law."

Mr. Soper moved to amend the same by inserting after the word "civil," in the first line, the words "or criminal," and striking out all after the word "Peace," in the second line, to the word "shall," in the 8th line.

Mr. Stuart, of Doddridge, moved to amend the amendment by striking out the word "six," and inserting "one," which was rejected.

And pending the consideration of the amendment of Mr. Soper,

On motion of Mr. Hagar, the Convention adjourned.

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#### THURSDAY, FEBRUARY 6, 1862.

The Convention met at 9 o'clock, A. M.

Prayer by Mr. McCutchen, member of the Convention.

The Journal of yesterday was read and approved.

Mr. Pomeroy offered the following resolution, which was adopted.

*Resolved*, That hereafter, until otherwise ordered, this Convention will meet at 3 o'clock, P. M.

The question then being upon Mr. Soper's amendment, offered last night to the additional Section of Mr. Van Winkle, the yeas and nays were demanded, and the demand being sustained, the amendment was rejected—yeas 18, nays 25.

And, on motion of Mr. Brumfield, the vote was recorded as follows:

**YEAS**—Messrs. Brumfield, Chapman, Dolly, Hansley, Hubbs, Hervey, Montague, Mahon, Parker, Pomeroy, Simmons, Stevenson of Wood, Stewart of Wirt, Soper, Taylor, Walker, Warder, Wilson—18.

**NAVS**—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brooks, Caldwell, Carskadon, Dering, Dille, Haymond, Harrison, Hagar, Irvine, Lamb, Lauck, McCutchen, Parsons, Powell, Robinson, Ryan, Sinsel, Stephenson of Clay, Stuart of Doddridge, Sheets, Trainer, Van Winkle—25.

Mr. Van Winkle, by general consent, moved to modify his additional Section, by inserting after the word "entitled," "if demanded," which was agreed to.

And, the question being upon the adoption of the Section, the yeas and nays were demanded, which demand being sustained, the Section was adopted—yeas 30, nays 14.

And, on motion of Mr. Mahon, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Brooks, Brumfield, Battelle, Chapman, Dolly, Hansley, Hubbs, Hervey, Hagar, Lamb, Lauck, Montague, Mahon, McCutchen, Powell, Parker, Pomeroy, Ryan, Simmons, Stevenson of Wood, Stephenson of Clay, Stewart of Wirt, Sheets, Soper, Taylor, Van Winkle, Walker, Warder, Wilson—30.

**NAVS**—Messrs. Brown of Preston, Brown of Kanawha, Caldwell, Carskadon, Dering, Dille, Haymond, Harrison, Irvine, Parsons, Robinson, Sinsel, Stuart of Doddridge, Trainer—14.

Mr. Brown, of Kanawha, moved to amend the 8th Section of the Report of the Committee on County Organization, by adding at the end thereof the following:

"But in all cases an appeal, writ of error, *supersedeas* or *certiorari*, shall be from the judgment or proceedings of the Board of Supervisors, a Justice of the Peace, Recorder, or Corporation or other inferior Court, to the Circuit Court of the county in which the case may be; excepting, however, judgment of Justices of the Peace in assumpsit, debt, detinue and trover, and for fine, where the amount does not exceed ten dollars, unless in cases involving freedom or the validity of a law, or the right of a Corporation or a county to levy tolls or taxes."

Mr. Van Winkle moved to amend the amendment by striking out the words "the Board of Supervisors" in the third line, which was agreed to.

Mr. Stuart, of Doddridge, moved further to amend the same by striking out the words "and for fine," which was decided in the negative.

The amendment of Mr. Brown, of Kanawha, as amended, was then adopted.

And, on motion of Mr. Brown, of Kanawha, the words "subject, however, to an appeal to the Circuit Court of the county, where the value in controversy exceeds ten dollars," in the 93d and 94th lines, in the 7th Section, were stricken out.

Mr. Caldwell then moved to take up the additional Section to said Report heretofore submitted by him, which was adopted.

By general consent, all after the word "curators" was stricken out.

Mr. Brown, of Kanawha, moved to amend said Section by adding after the word "curators," in the 8th line, the following: "to administer oaths, to take acknowledgement of deeds and other writings, and the relinquishment of dower," which was agreed to, and the Section, as amended, was adopted.

And, on motion of Mr. Van Winkle, the said Report was laid on the table, and ordered to be printed as amended.

Mr. Battelle moved to take up the Second Report of the Committee on Education, which being put was determined in the affirmative.

The 1st Section was read, whereupon,

Mr. Brown, of Kanawha, moved to strike out the whole Section.

And at the usual hour, the Convention took a recess.

3 O'CLOCK, P. M.

The Convention re-assembled.

Mr. Smith offered the following substitute for the Second Report of the Committee on Education:

1. No entry or survey on land in this State made after this Constitution is adopted by the people, and receives the consent of the Legislature of Virginia and of the Congress of the United States, shall be valid; and in all cases where an entry or survey has been made before that time, and then, or thereafter, so perfected as to entitle the locator to a grant, the Legislature shall make provision by law for issuing the same.
2. The Legislature shall make provision for the sale of all lands in the State, forfeited for nonpayment of taxes for the year 1831, or any year previous thereto, or for the failure of the owners to have the same entered and charged with taxes for the year 1831, or any preceding year, as well as for all waste and unappropriated lands, by proceedings to be had in the Circuit Courts of the county where such lands, or the greater part thereof may lie.

Mr. Caldwell moved that the substitute be laid on the table and printed, and that the Report be passed by for the present, which was agreed to.

Mr. Lamb moved to take up the Report of the Committee on County Organization, and the motion was decided in the affirmative.

Mr. Lamb then submitted the following additional Section thereto, which was adopted:

"Nothing contained in this article shall impair or affect the charter of any municipal corporation, or restrict the power of the Legislature to create or regulate such corporations."

Said Report was then laid on the table and ordered to be printed as amended.

Mr. Van Winkle then moved to take up the two Reports of the Committee on Fundamental and General Provisions, which was agreed to.

Mr. Van Winkle then moved the adoption of the 7th Section of the 1st Report, as amended, which had been heretofore passed by.

Mr. Soper moved further to amend the same by adding at the end thereof the words "except surveyors of highways," and the question being put was decided in the negative.

The 7th Section was then adopted as amended.

The 9th Section, heretofore passed by, was then taken up and amended so as to read as follows:

"All citizens entitled to vote, and no other persons, may be elected to any State, county or municipal office; but the Judges must have attained the age of thirty-five years; the Governor the age of thirty years; and the Attorney General and Senators the age of twenty-five years, at the beginning of their respective terms of service, and must have been citizens of the State for five years next preceding, or at the time this Constitution goes into operation."

The 1st Section of the Second Report was then read and adopted.

Mr. Van Winkle moved to insert between the 1st and 2d Sections, the following additional Section:

"All elections of State and county officers shall be held on the day of ."

Mr. Brown, of Kanawha, moved to fill the blank with "fourth Thursday of May."

Mr. Harrison moved to amend by filling the blank with "fourth Thursday of October;" and the question being upon the amendment to the amendment, it was decided in the affirmative.

The said additional Section was then adopted as amended.

On motion of Mr. Van Winkle the blank, in the 10th line, was filled by inserting the "first day of January."

Mr. Soper then moved further to amend the 2d Section by striking out the words "and appointments," in the 11th line, and inserting in lieu of the words "by special elections," the words "in such manner as may be prescribed by law."

The 2d Section was then adopted as amended.

Upon the reading of the 3d Section,

Mr. Soper moved to insert after the word "crime," in the 17th line, the words "not cognizable by a Justice of the Peace," which was agreed to; after which the 3d Section, as amended, was adopted.

The 4th Section being read,

Mr. Lamb moved to amend by striking out the words "having in view the overthrow of the Government thereof," which motion was agreed to; after which the Section was adopted.

The 5th, 6th, 7th, 8th and 9th Sections were then respectively read and adopted as reported.

The 10th Section was read, when

Mr. Van Winkle moved to amend by adding at the end of the fourth sentence the words "or to imprisonment," which was disagreed to.

Mr. Stuart, of Doddridge, moved to strike out the fourth sentence, which was put and decided in the affirmative.

And, on motion of Mr. Irvine, the fifth sentence was stricken out.

The question then being upon the adoption of the 10th Section, as amended, it was agreed to.

And, on motion of Mr. Battelle, the Convention adjourned.

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## FRIDAY, FEBRUARY 7th, 1862.

The Convention met at 9 o'clock, A. M.

Prayer by Rev. Mr. Pomeroy.

Journal read and approved.

The 11th Section of the Second Report of the Committee on Fundamental and General Provisions, was read and adopted.

The last Section was read.

On motion of Mr. Van Winkle it was amended as follows: In-

sert the words "and District," before the word "Court," in the 92d line, and insert after the word "defendant," in the 93d line, the words, "in the Court below," and insert after the word "boundaries," in the same line, the following: "or the subject of the suit is land or other property situated or being therein."

Mr. Parker moved to amend the said Section by adding after the word "Legislature," at the end of the 81st line, the following:

"All offences against the law of Virginia, committed within the boundaries of the State before this Constitution goes into operation, shall be cognizable in the Courts of this State, in the same manner they would be if committed within this State after the adoption of this Constitution."

And the question being upon the adoption of this amendment, it was decided in the affirmative.

Mr. Smith then moved to strike out the second sentence of said Section, which was agreed to.

Mr. Smith submitted the substitute heretofore offered by him for the second Report of the Committee on Education, and moved that it be adopted as additional Sections to the Report of the Committee on Fundamental and General Provisions.

The 1st Section thereof was amended and adopted as follows:

"No entry by warrant on land in this State shall be made after this Constitution goes into operation; and in all cases where an entry has been made before that time, and there, or thereafter so perfected as to entitle the locator to a grant, the Legislature shall make provision by law for issuing the same."

The second Section was read, when

Mr. Brown, of Kanawha, moved to amend the same by striking out the words "or the greater part thereof," in the 14th and 15th lines, which was agreed to.

The word "as" after taxes was stricken out by general consent, and the Section was adopted.

And, on motion of Mr. Van Winkle, the Reports were laid on the table for the present.

Mr. Lamb moved that the Convention take up, on its second reading, the Report of the Committee on the Legislative Department, which motion was adopted.

Upon the reading thereof,

Mr. Dille moved to amend the 2d line by striking out the word "Delegates," and inserting "Representatives," which was disagreed to.

Mr. Lamb moved to amend the 2d Section by striking out all

after the word "year," in the 10th line to the end of the sentence, which motion was adopted.

And, on motion of Mr. Lamb, the last sentence of the 2d Section was stricken out.

Mr. Stuart, of Doddridge, moved to strike out the words "or otherwise," in the 34th line, which was disagreed to.

Mr. Irvine moved to amend the 86th line, by inserting after the word "Gilmer," the word "Wirt," and the 88th line, by inserting after the word "1st," the words "and 2d," and the 89th line, by inserting after the word "shall," the word "each," and strike out "five," and insert "four."

Pending the consideration of which, the Convention, at the usual hour, took a recess.

### 3 O'CLOCK, P. M.

The Convention reassembled.

The amendment of Mr. Irvine, pending when the Convention took a recess, was rejected.

Mr. Hoback moved to amend by striking out of the 88th line the word "McDowell," which was disagreed to.

Mr. Stephenson, of Clay, moved to strike out the whole of the 1st Section, and upon this question the yeas and nays were demanded, and the demand being sustained, the motion was disagreed to—yeas 17, nays 22.

And, on motion of Mr. Stephenson, of Clay, the vote was recorded, as follows:

YEAS—Messrs. John Hall, (President), Brown of Kanawha, Cook, Haymond, Hoback, Hagar, Irvine, Lamb, Montague, Powell, Robinson, Ryan, Stephenson of Clay, Soper, Walker, Warder, Wilson—17.

NAYS—Messrs. Brown of Preston, Brumfield, Chapman, Caldwell, Carskadon, Dering, Dille, Dolly, Hubbs, Hervey, Lauck, Montague, Parsons, Pomeroy, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Smith, Taylor, Trainer, Van Winkle—22.

Mr. Hoback moved to strike out all after the word "County," in the 104th line, to the end of the 109th line, which was rejected.

Mr. Stephenson, of Clay, moved to strike out the third sentence of the 11th Section, which was disagreed to.

Mr. Lauck moved to amend the 119th line so as to require the City of Wheeling to elect two Delegates, and the county of Ohio one Delegate, which was decided in the negative.

On motion of Mr. Lamb the 16th Section was transferred to the Report of the Committee on County Organization.

Mr. Brown, of Kanawha, moved to strike out the 18th Section, which was disagreed to.

By general consent the word "two," in the 193rd line, was stricken out and the word "one" inserted.

Mr. Lamb moved to amend the 18th Section by striking out all after the word "Ohio," in the 194th line, to the word "the" in the 195th line, and insert in the blank the words "shall not have resided within," and to add, at the end of the Section, the following: "one year next preceding his election."

Mr. Brown, of Kanawha, moved to insert after the word "United States," in the 198th line, the following: "any minister or priest of a religious denomination; any salaried officer of a banking corporation or company."

A division being called for, the yeas and nays were demanded upon inserting the words "any minister or priest of a religious denomination," which being sustained the amendment was rejected—yeas 16, nays 28.

And, on motion of Mr. Brown, of Kanawha, the vote was recorded as follows:

**YEAS**—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Caldwell, Carskadon, Dering, Dille, Harrison, Hubbs, Hoback, Irvine, Montague, O'Brien, Sinsel, Stephenson of Clay, Warder—16.

**NAYS**—Messrs. Brooks, Chapman, Cook, Dolly, Hansley, Haymond, Hervey, Hagar, Lamb, Lauck, McCutchen, Parsons, Powell, Parker, Paxton, Pomeroy, Ryan, Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Taylor, Trainer, Van Winkle, Walker, Wilson—28.

The question then being upon inserting the words "any salaried officer of a banking corporation or company," the yeas and nays were demanded, and the demand receiving a second, the amendment was rejected—yeas 12, nays 29.

And, on motion of Mr. Brown, of Kanawha, the vote was recorded as follows:

**YEAS**—Messrs. Brown of Kanawha, Brumfield, Caldwell, Carskadon, Dering, Dille, Hoback, Montague, O'Brien, Sinsel, Stephenson of Clay, Taylor—12.

**NAYS**—Messrs. John Hall, (President), Brown of Preston, Brooks, Chapman, Dolly, Haymond, Hubbs, Hervey, Hagar, Irvine, Lauck, McCutchen, Parsons, Powell, Parker, Paxton, Pomeroy, Ryan, Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Trainer, Van Winkle, Walker, Warder, Wilson—29.

Mr. Powell moved to add after the word "profit," in the 213th line, the words "or of exercising the right of suffrage in this State," which was disagreed to.

Mr. Stevenson, of Wood, moved to strike out the word "City of Wheeling," in the 223rd line, and insert "town of Parkersburg."

Mr. Sinsel moved to amend the amendment by inserting "town of Grafton."

Mr. Harrison asked for a division; and the question being first put upon striking out, it was determined in the negative.

And, on motion of Mr. Trainer, the Convention adjourned.

## SATURDAY, FEBRUARY 8th, 1862.

The Convention met at the usual hour, and after prayer by the Rev. Mr. Powell, the Journal was read and approved.

Mr. Hervey moved to amend the 233rd line by adding at the end thereof the following: "but such extension shall not exceed thirty days."

Mr. Brown, of Kanawha, moved to substitute the following for the amendment of Mr. Hervey; strike out the word "three-fifths" and insert "three fourths," and the question being upon the substitute it was decided in the affirmative.

Mr. Walker moved to strike out the word "three," in the 271st line, and insert "four," which was disagreed to—yeas 12, nays 32.

And, on motion of Mr. Powell, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Battelle, Cook, Haymond, Hervey, Hoback, Lamb, Parker, Robinson, Singel, Simmons, Walker—12.

NAYS—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Chapman, Carskadon, Dering, Dille, Dolly, Hansley, Harrison, Hubbs, Hagar, Irvine, Lauck, Montague, Mahon, McCutchen, O'Brien, Powell, Pomeroy, Ryan, Stevenson of Wood, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Taylor, Van Winkle, Warder, Wilson—32.

Mr. Van Winkle moved to strike out the word "three," in the 271st line, and insert "two."

Mr. Brown, of Preston, asked for a division of the question, and the question being first upon striking out, the yeas and nays were demanded, which demand being sustained, the motion was rejected—yeas 11, nays 34.

And, on motion of Mr. Brown, of Preston, the vote was recorded as follows:

YEAS—Messrs. John Hall (President) Cook, Harrison, Hoback, Hagar, Ryan, Stephenson of Clay, Stuart of Doddridge, Van Winkle, Walker, Wilson—11.

NAYS—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, Caldwell, Carskadon, Dering, Dille, Dolly, Hansley, Haymond, Hubbs, Hervey, Irvine, Lauck, Lamb, Montague, Mahon, McCutchen, O'Brien, Powell, Parker, Pomeroy, Robinson, Singel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Taylor, Warder—34.

Mr. Irvine moved to amend the 284th line by inserting, after the word "object," the following: "unless the objects are so connected that they cannot be conveniently separated," and, after the word "which," the following: "object or objects."

Mr. Lamb moved to amend the amendment by striking out the whole of the 37th Section, which motion was decided in the negative.

Mr. Brown, of Kanawha moved to amend the amendment by substituting the following for the 37th Section:

"But one object ought to be included in any legislative act, and that object ought to be stated in the title."

And the question being upon this substitute, it was rejected.

Mr. Irvine's amendment was then rejected.

Mr. Van Winkle moved to amend the 287th line by inserting, after the word "bill," the words "creating a debt, appropriating money, or repealing or altering a public act," which was disagreed to.

On motion of Mr. Van Winkle, the 45th Section was transferred to the report of the Committee on Fundamental and General Provisions.

Mr. Van Winkle moved to strike out the first clause of the 46th Section, which motion was rejected.

Mr. Dolly, moved to amend the 355th line by striking out "shall" and inserting "may," and the motion was adopted.

Mr. Stuart, of Doddridge, moved to strike out the 48th Section, and the question being put the motion was agreed to.

Mr. Van Winkle moved to amend the 382d line by striking out the word three and inserting "one."

Mr. Irvine moved to amend the amendment by inserting "two" instead of "one."

Mr. Lamb moved that the motion be divided; and the question being, first, upon striking out of the word "three," it was decided in the negative.

Mr. Brown, of Kanawha, moved to amend the 383d line by striking out the words "in every county in which a newspaper is printed," and insert the words "printed at the capital."

Mr. Dering moved to amend the amendment by inserting "printed in one newspaper in each Senatorial District."

A division being called for, the question was first put upon striking out, which was decided in the negative.

Mr. Ryan moved to strike out the word "may," in the 398th line, and insert "shall," which was disagreed to.

Mr. Lamb moved to strike out the 51st Section, which was rejected.

Mr. Van Winkle moved to amend the 411th line by striking out the words "except where the object cannot be attained under such general laws," and the question being put, was decided in the affirmative.

Mr. Lamb moved to strike out the words "the same," in the 416th line, and insert "such charter," which was agreed to.

And the question then recurring upon the adoption of the whole Report of the Committee on the Legislative Department, as amended, it was determined in the affirmative.

Mr. Van Winkle then moved that the Report of the Committee

on Fundamental and General Provisions be printed, as amended, which was agreed to.

And, on motion of Mr. Van Winkle, the Convention adjourned.

## MONDAY, FEBRUARY 10, 1862.

The Convention met at 9 o'clock, A. M.

Prayer by Rev. Mr. Hagar, after which the Journal of the preceding day was read and approved.

Mr. Van Winkle submitted propositions for the Schedule, which were referred to the Committee on that subject.

Mr. Van Winkle then offered the following resolutions:

1. *Resolved*, As the opinion of this Convention, That if the Legislature of the State of Virginia shall, at its present session, pass an act giving the consent of the said Legislature to the formation and erection of the proposed new State within the present jurisdiction of the State of Virginia, but suspending the operation of the said act until the Governor of the said State shall by proclamation declare that the people residing within the limits of the proposed new State have adopted the Constitution to be proposed by this Convention in the manner therein set forth, such consent would, upon the issuing of the said proclamation, be, to all intents and purposes, the consent of the Legislature required by the Third Section of the Fourth Article of the Constitution of the United States.

2. *Resolved*, That the said Legislature is hereby respectfully requested to give its consent to the formation and erection of the proposed new State in the manner indicated in the foregoing resolution at its present session; and to provide for the submission of the said Constitution to the voters residing within the proposed limits of the said new State for their adoption or rejection, on the day and in the manner therein set forth, requiring the Governor, within        days thereafter to issue his proclamation declaring the result of said election and the adoption or rejection of the said Constitution, as the case may be; and in the event of its adoption to transmit to Congress authenticated copies of the said Constitution, of the act giving the consent of the Legislature, and of the proclamation of the Governor.

3. *Resolved*, That the Committee on the Schedule is hereby in-

structed to report a suitable provision to be inserted therein, providing that in event of the formation and erection of the proposed new State, the whole cost of this Convention, including the election of its members, the submission of the Constitution to the people, and all other expenses attending the premises shall be refunded to the State of Virginia.

4. *Resolved*, That the said Legislature is hereby further requested to make such additional appropriation as may be necessary to defray the expenses incurred and to be incurred by this Convention, and in submitting the said Constitution to the people, and transmitting the same to Congress.

5. *Resolved*, That the Committee on Printing and Expenditures report a revised estimate of the amount required to defray the expenses of the Convention, based upon the contemplated adjournment on the 19th instant, showing the amount required to pay the additional members admitted since their last estimate, the cost of printing and distributing 5,000 copies of the Constitution in pamphlet form, and the amount already appropriated by the Legislature.

6. *Resolved*, That the President be requested to transmit a copy of the foregoing resolutions, and of the estimate of the Committee on Printing, &c., to the Legislature.

On motion of Mr. Van Winkle, all the foregoing resolutions except the 5th, were laid on the table and ordered to be printed.

And the question being upon the adoption of the 5th resolution,

Mr. Dering moved to amend the same by inserting "10,000" in lieu of "3,000," which was disagreed to.

Mr. Lamb moved to amend the same by inserting "5,000" instead of "3,000," which was adopted.

And the resolution, as amended, was adopted.

On motion of Mr. Stevenson, of Wood, the Report of the Committee on the Executive Department was taken up on its second reading.

And, on motion of Mr. Lamb, the blank in the third line was filled with the words "fourth day of March."

Mr. Lamb moved to amend the 18th line by striking out the words "and foreign," which was agreed to.

Mr. Brown, of Kanawha moved to amend the 20th line by inserting, after the word "for," the words "by this Constitution, or by the Legislature," which motion was decided in the affirmative.

On motion of Mr. Stevenson, of Wood, the word "otherwise," in the 19th line was stricken out.

Mr. Ryan moved to amend the 68th line by striking out "fifteen hundred," and inserting "sixteen hundred."

Mr. Powell asked for a division, and the question being put upon striking out, it was decided in the negative.

Mr. Stuart, of Doddridge, moved to transpose the salaries of the Secretary of the State and the Treasurer, in the 8th Section, which was disagreed to.

Mr. Battelle moved to amend the 8th Section by striking out all fixing the salaries of the different officers named therein, and inserting, after the word "duties," in the 70th line, the word "compensation," and the question being, first, upon the striking out, it was decided in the negative.

On motion of Mr. Harrison, the word "Legislature," in the 72d line, was stricken out and the word "law" inserted.

On motion of Mr. Lamb, the whole of the 9th Section was stricken out.

Mr. Harrison moved to strike out all the 10th Section to the words "the Governor," in the 81st line, which was agreed to.

And on motion of Mr. Dering, the report, as amended, was adopted.

On motion of Mr. Harrison, the Report of the Committee on the Judiciary Department was taken up on its second reading.

Mr. Stevenson, of Wood, moved to amend the 58th line by striking out the word "twenty" and inserting the word "fifty."

Mr. Dille asked for a division, and the question being first upon striking out, it was determined in the negative.

By general consent, the word "costs," in the 57th line, was stricken out, and the word interest inserted.

Mr. Powell moved to amend the 110th line by striking out the word "eighteen" and inserting "sixteen," and the question being, first, upon striking out, the yeas and nays were demanded, which demand being sustained, the amendment was rejected—yeas 14, nays 23.

And, on motion of Mr. Stevenson, of Wood, the vote was recorded, as follows:

YEAS.—Messrs. Brown of Preston, Battelle, Dille, Dolly, Haymond, Hagar, Parsons, Powell, Ryan, Sinsel, Simmons, Stevenson of Wood, Soper, Wilson—14.

NAYS.—Messrs. John Hall (President), Brown of Kanawha, Chapman, Carskadon, Dering, Hansley, Harrison, Herve, Irvine, Lamb, Montague, McOutchen, Parker, Robinson, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Smith Taylor, Van Winkle, Walker, War-der—23.

Mr. Stuart, of Doddridge, moved to amend the 116th line by striking out the words "continuance in," and insert "term of," which motion was rejected.

Mr. Stuart, of Doddridge moved to amend the 116th and 117th lines by striking out all after the words "judicial office," which was disagreed to.

Mr. Dille moved to amend the 128th line by striking out the word "twenty" and insert "thirty," which was rejected.

Mr. Dille moved to strike out the word "said" and insert "the," in the 132d line, which was agreed to.

Mr. Dille moved to amend the 137th line by striking out the word "four" and insert "six," which was rejected.

Mr. Van Winkle moved to amend the 130th line by inserting, after the word "Appeals" the words "and of the Circuits," which was disagreed to.

Mr. Stuart, of Doddridge moved to strike out the words "such compensation as may be prescribed by law," and insert "a salary of five hundred dollars per annum.

Mr. Lamb asked for a division; and the question being upon striking out, it was put and decided in the negative.

And at the usual hour, the Convention took a recess.

3 O'CLOCK, P. M.

The Convention re-assembled.

Mr. Brown moved to amend the last line of said report by inserting after the word "city," the words "or incorporated town," which was agreed to.

The question then recurring upon the adoption of the whole report, as amended, it was put and decided in the affirmative.

And, on motion of Mr. Van Winkle, the Report of the Committee on Fundamental and General Provisions was taken up on its second reading.

Mr. Van Winkle moved to amend the first line by striking out the word "West Virginia," and upon this question the yeas and nays were demanded, and the demand receiving a-second, the motion was rejected—yeas 11, nays 28.

Mr. Powell moved that the vote be recorded, which was done, as follows:

YEAS—Messrs. John Hall, (President), Battelle, Haymond, Harrison, Hervey, Hoback, Lamb, Stevenson of Wood, Stewart of Wirt, Van Winkle, Warder—11.

NAYS—Messrs. Brown of Kanawha, Brown of Preston, Brumfield, Chapman, Caldwell, Carskadon, Cook, Dering, Dille, Dolly, Hansley, Hagar, Irvine, Montague, Mahon, McCutchen, O'Brien, Parsons, Powell, Parker, Robinson, Ryan, Sinsel, Simmons, Sheets, Soper, Taylor, Wilson—28.

Mr. Brown, of Kanawha, moved to strike out the entire first Section, which was disagreed to.

Mr. Lamb moved to insert the word "grants," after the word "writ," which was adopted.

On motion of Mr. Lamb, the second sentence of the 2d Section was stricken out.

Mr. Brown, of Kanawha, moved to amend the 14th line by inserting after the word "the," at the beginning of the Section, the word "white," which was disagreed to.

Mr. Wilson moved to amend the 27th line by inserting after the word "election," the following: "or who has not paid all taxes assessed against him for the previous year," which was rejected.

Mr. Powell moved to amend the 25th line, by striking out the words "is under conviction," and insert the words "has been convicted," in the 26th line.

Mr. Brown, of Kanawha, moved as a substitute for the motion of Mr. Powell, to strike out the word "or," before "felony," and also the words "who has been convicted," and upon the question the yeas and nays were demanded, and the demand being sustained, the substitute was adopted—yeas 22, nays 17.

And, on motion of Mr. Simmons, the vote was recorded as follows:

YEAS—Messrs. Brown of Kanawha, Battelle, Chapman, Carskadon, Cook, Dille, Dolly, Haymond, O'Brien, Parsons, Ryan, Simmons, Stevenson of Wood, Stephenson of Clay, Stuart of Doddridge, Soper, Smith, Taylor, Van Winkle, Warder, Wilson—22.

NAYS—Messrs. Brown of Preston, Brumfield, Caldwell, Dering, Hansley, Hoback, Harrison, Hervey, Hagar, Irvine, Lamb, Montague, McCutchen, Powell, Parsons, Sinsel, Stewart of Wirt—17.

Mr. Brown, of Kanawha, moved to amend the 32nd line by striking out the words "by ballot," and inserting the words "*viva voce*," and upon this question the yeas and nays were demanded, which being sustained, the motion was disagreed to—yeas 10, nays 29.

And, on motion of Mr. Brown, of Preston, the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brown of Kanawha, Cook, Hoback, McCutchen, Robinson, Stephenson of Clay, Stuart of Doddridge, Smith, Wilson—10.

NAYS—Messrs. Brumfield, Battelle, Chapman, Caldwell, Carskadon, Dering, Dille, Dolly, Hansley, Haymond, Hervey, Hagar, Irvine, Lamb, Montague, O'Brien, Parsons, Powell, Parker, Ryan, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Sheets, Soper, Taylor, Van Winkle, Warder—29.

Mr. Parker moved to amend the 45th line by inserting after the word "all," the words "except Senators who shall have resided in the State two years," and upon this question the yeas and nays were demanded, and the demand being sustained, the amendment was rejected—yeas 11, nays 29.

And, on motion of Mr. Brown, of Kanawha, the vote was recorded as follows:

YEAS—Messrs. Battelle, Chapman, Hansley, Hervey, Hagar, Parker, Simmons, Stevenson of Wood, Soper, Taylor, Wilson—11.

**NAYS**—Messrs. John Hall, (President,) Brown of Preston, Brown of Kanawha, Brumfield, Caldwell, Carskadon, Cook, Dille, Dolly, Hall of Marion, Haymond, Harrison, Hoback, Irvine, Lamb, Montague, McCutchen, O'Brien, Parsons, Powell, Robinson, Sinsel, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Smith, Van Winkle, Warder—29.

Mr. Powell moved to amend the 46th line by striking out the word "five" and inserting the word "three."

Mr. Sinsel asked for a division, and the question being first upon striking out, the yeas and nays were demanded, and the demand being sustained, the motion was lost—yeas 13, nays 27.

And, on motion of Mr. Brown, of Kanawha, the vote was recorded as follows:

**YEAS**—Messrs. Battelle, Chapman, Hansley, Hervey, Hagar, McCutchen, Powell, Parker, Simmons, Stephenson of Wood, Soper, Taylor, Van Winkle—18.

**NAYS**—Messrs. John Hall (President), Brown of Preston, Brown of Kanawha, Brumfield, Caldwell, Carskadon, Cook, Dille, Dolly, Hall of Marion, Haymond, Harrison, Hoback, Irvine, Lamb, Montague, O'Brien, Parsons, Robinson, Sinsel, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Smith, Warder, Wilson—27.

Mr. Lamb moved to strike out the 40th line, and insert in lieu thereof the following: "No persons, except citizens entitled to vote shall," which was adopted.

Mr. Powell moved that the following be added at the end of the 9th Section: "No person convicted of treason, felony or of bribery in an election shall be elected or appointed to any State, county or municipal office," and the question being upon the adoption of this amendment, it was decided in the negative.

And, on motion of Mr. Lamb, the Convention adjourned.

## TUESDAY, FEBRUARY 11, 1862.

The Convention met at the usual hour, and after prayer by the Rev. Mr. Simmons, the Journal of yesterday was read and approved.

Mr. Stuart, of Doddridge, from the Committee on the Boundary, submitted the following report, which was laid on the table:

The Committee on the Boundary to whom were referred certain resolutions relating to the boundaries of the proposed new State, with instructions to report a provision to be inserted in the Constitution, embracing the substance of the said resolutions, and fully defining the said boundaries, respectfully submit the following for the consideration of the Convention.

By order of the Committee,

C. J. STUART, *Chairman.*

The following counties, formerly parts of the State of Virginia, as the same have been heretofore laid off and established by authority thereof, namely: the counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Pleasants, Tyler, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier and Monroe, shall be included in and form part of the State of West Virginia. And if a majority of the voters of the district composed of the counties of Pendleton, Hardy, Hampshire, Morgan, Berkley, Jefferson and Frederick, voting at an election or elections held as provided in the Schedule hereof, and a majority of the voters of each of any four of the said seven counties, voting as aforesaid, shall vote for the adoption of this Constitution, then all the said counties shall also be included in and form part of the State of West Virginia; but if the result of said election or elections is otherwise, and a majority of the voters of the district composed of the said counties of Pendleton, Hardy, Hampshire and Morgan voting at the said election or elections, and a majority of the voters of any three of the four counties last named, shall nevertheless vote for the adoption of this Constitution then only the said counties of Pendleton, Hardy, Hampshire and Morgan shall also be included in and form part of the State of West Virginia. The said State shall also include so much of the bed, banks and shores of the Ohio river as heretofore appertained to the State of Virginia; and the territorial right and property in, and the jurisdiction, of whatever nature, over the said bed, banks and shores heretofore reserved by and vested in the State of Virginia, shall vest in and be hereafter exercised by the State of West Virginia.

Mr. Van Winkle then moved to take up the resolutions submitted by him on yesterday, which was agreed to.

Mr. Ruffner moved to amend the 1st resolution by striking out all after the word "Virginia," in the 5th line, to the end of the 9th line, and also the words "upon the issuing of the said proclamation," which was adopted.

And the question being upon the adoption of the 1st resolution, as amended, the yeas and nays were demanded, and the demand being sustained, the motion was decided in the affirmative—yeas 39, nays 7.

And on motion of Mr. Brown, of Kanawha, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Preston, Brumfield, Battelle, Caldwell, Carke-  
don, Cook, Dering, Dills, Dolly, Hansley, Hall of Marion, Haymond, Hubbs, Hervey, Hagar, Ho-  
back, Irvine, Lamb, Lauck, Mahon, O'Brien, Parsons, Powell, Pomeroy, Ruffner, Ryan, Mined,  
Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Sheets, Seper, Smith, Tay-  
lor, Van Winkle, Warder, Wilson—39.

NAYS—Messrs. Brown of Kanawha, Harrison, Montague, McOutchen, Parker, Stephenson of  
Clay, Walker—7.

Mr. Van Winkle moved to amend the 2d resolution by striking out the words "within            days thereafter," and insert the words "as soon as the result is ascertained," which motion was adopted.

Mr. Stuart, of Doddridge, moved to strike out all after the words "set forth," in the 7th line.

Mr. Ruffner moved to strike out all after the word "State," in the 3d line, to the word "at," in the 4th line, and all after the word "session" to the end of the resolution, and the amendment to the amendment was rejected, after which,

The motion of Mr. Stuart, of Doddridge, was disagreed to,  
And the second resolution adopted as amended.

The 3d, 4th and 5th resolutions were then read and respectively adopted.

The question then being upon the adoption of the Report of the Committee on Fundamental and General Provisions as amended,

Mr. Hall, of Marion, moved further to amend the same by striking out the word "five," in the 66th line, which was disagreed to.

On motion of Mr. Van Winkle, the following words, accidentally omitted in printing, were inserted after the word "comfort," in the 64th line: "No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open Court."

Mr. Van Winkle moved to amend the 79th line by adding at the end thereof, the words "and of all Township officers, on the 4th Thursday of May."

Mr. Pomeroy moved to amend the amendment by inserting "first Thursday of April."

And the question being upon the amendment to the amendment, it was decided in the negative.

Mr. Van Winkle's amendment was then rejected.

Mr. Van Winkle moved to amend the 84th line by striking out the words "and appointment," which was agreed to.

By general consent, the words "in elective offices," in the 85th line, were stricken out.

Mr. Lamb moved to insert after the word "officers," in the 78th line the following: "and of the members of both Houses of the Legislature," which was agreed to.

Mr. Brown, of Kanawha, moved to amend the 78th line by

inserting after the word county the words "and Townships," which was rejected.

Mr. Caldwell moved to amend the 95th line by inserting after the word "contract" the words "or remedies," and the question was put and decided in the negative.

On motion of Mr. Van Winkle, the words "or instituted in" were inserted in the 130th line, after the word "to."

On motion of Mr. Brown, of Kanawha, the 23d Section was amended by striking out the first sentence.

Mr. Stuart, of Doddridge, moved to amend the 139th line by striking out all after the word "true" to the word "the," in the 140th line.

Mr. Sinsel moved to amend the amendment by striking out the whole of the 23d Section, which was disagreed to.

The motion of Mr. Stuart was then decided in the negative.

On motion of Mr. Van Winkle the Committee on Printing and Expenditures were granted leave to make a verbal Report. Whereupon,

Mr. Stevenson, of Wood, Chairman of said Committee, reported, that the Committee had had under consideration, the resolution referred to them on yesterday, and that no further appropriation will be required to accomplish the purposes named in said resolution.

The hour of 12½ o'clock having arrived, the Convention took a recess.

3 O'CLOCK, P. M.

The Convention re-assembled.

Mr. Van Winkle moved to rescind the 4th resolution and so much of the 5th resolution as relates to the estimate of the Committee on Printing and expenditures, which were adopted this morning, and the motion was agreed to.

On motion of Mr. Van Winkle the following clause was inserted in the Report of the Committee on Fundamental and General Provisions at the end of the 69th line. "All private rights and interests in lands within this State, derived from the laws of Virginia prior to the time this Constitution goes into operation, shall remain valid and secure under the laws of this State, and shall be determined by the laws then existing in the State of Virginia.

Mr. Van Winkle moved to amend the 28th Section by striking out all after the word "taxes," in the 178th line, to the word "or," in the 180th line, and all after the word "taxes," in the 181st line, to the words "as well," in the 182nd line, which was agreed to.

Mr. Van Winkle moved to take up the Report of the Committee on the Boundary on its second reading, which was agreed to.

Mr. Van Winkle then moved that said report be adopted, and inserted as the 2d Section of the Report of the Committee on Fundamental and General Provisions.

Mr. Hall, of Marion, moved to amend the same by striking out all the second sentence and inserting the following:

"And if a majority of the votes cast at an election or elections held as provided in the Schedule hereof in the district composed of the counties of Pendleton, Hardy, Hampshire and Morgan, shall be in favor of the adoption of this Constitution, then the said four counties shall also be included in and form part of the State of West Virginia, and if the same shall be so included, and a majority of the votes cast at the said election or elections in the district composed of the counties of Berkeley, Jefferson and Frederick, shall be in favor of the adoption of this Constitution then the said counties shall also be included in and form part of the State of West Virginia."

And the question being upon the adoption of this amendment it was decided in the affirmative.

Mr. Brown, of Kanawha, moved further to amend the same by inserting, at the end of the second sentence, the following: "The counties of Lee, Scott, Wise, Russell, Buchanan, Tazewell, Bland, Giles, Craig, Allegheny, Bath, Highland, Loudon, Alexandria, Fairfax, Northampton and Accomac shall constitute part of the State of West Virginia, if a majority of the votes cast at the election for the purpose and a majority of the said counties be in favor of the adoption of this Constitution."

And upon this question the yeas and nays were demanded, which demand being sustained the amendment was rejected—yeas 13, nays 28.

And, on motion of Mr. Brown, of Kanawha, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Chapman, Carskadon, Dolly, Hubbs, Montague, McCutchen, Simmons, Stephenson of Clay, Sheets, Smith, Taylor—18.

NAYS—Messrs. Brown of Preston, Brumfield, Battelle, Caldwell, Dering, Dille, Hansley, Hall of Marion, Haymond, Harrison, Hervey, Irvine, Lamb, O'Brien, Parsons, Powell, Paxton, Pomeroy, Robinson, Ryan, Sinsel, Stevenson of Wood, Stewart of Wirt, Soper, Trainer, Van Winkle, War-der, Wilson—28.

On motion of Mr. Powell, the Convention adjourned.

WEDNESDAY, FEBRUARY 12, 1862.

The Convention met at 9 o'clock, A. M.

Prayer by Rev. Mr. Ryan, member of the Convention.

The Journal was read and approved.

The question being upon the adoption of the Report of the Committee on Boundary as a part of the Fundamental and General Provisions, the question was put and decided in the affirmative.

On motion of Mr. Brown, of Kanawha, the following additional Section to the Fundamental and General Provisions was adopted:

"All lands lying within the State of West Virginia, which have been vested in the State of Virginia by purchase at Sheriff's sale for taxes and damages delinquent thereon, whenever they become vested in the State of West Virginia, may be redeemed by the former owner by the payment to the State of West Virginia of the amount of taxes and damages due thereon, within five years after this Constitution goes into operation, and the net amount so paid in redemption shall go to the School Fund. And the residue of such lands so vested and not so redeemed shall be treated as forfeited lands."

And, on motion of Mr. Van Winkle, the amended Reports of the Committees on Fundamental and General Provisions; on the Judiciary Department; on the Legislative Department; and on the Executive Department, were referred to the Committee on Revision and Engrossment.

On motion of Mr. Battelle the Report of the Committee on Education, as amended, was taken up on its second reading.

Mr. Battelle moved to amend the same by striking out the clause embraced in the 8th and 9th lines, and inserting in lieu thereof the following, which was agreed to.

"This State's share of the Literary Fund of Virginia, whether paid over or otherwise liquidated; and any sums of money, stocks or property, which this State shall have the right to claim from the State of Virginia for educational purposes."

On motion of Mr. Smith the word "that," in the 15th line, was stricken out, and the word "the" inserted.

Mr. Smith moved to strike out all after the word land, in the 18th line, to the word and in the 19th line, which was disagreed to.

On motion of Mr. Stevenson, the word "deceased" and the word

"that," in the 10th line, were stricken out, and the word "who" inserted after the word "persons."

Mr. Van Winkle moved to amend the 30th line by inserting after the word "thereof," the following: "and of all lands hereafter sold for taxes, and purchased by the State of Virginia, if hereafter redeemed or sold to others than the State," which amendment was adopted.

Mr. Battelle moved to amend the 33rd and 34th lines by striking out all after the word "thereof" to the end of the Section, and insert "such a proportion of the amount required for the support of free schools therein as shall be ascertained by general laws," which was agreed to.

Mr. Battelle moved to amend the 47th line by striking out the words "the education and maintenance of," and the 48th line by striking out the word "other," which was adopted.

On motion of Mr. Van Winkle, the word "shall" in the 35th line was stricken out, and the word "may" inserted.

And, the question then recurring upon the adoption of the Report, as amended, it was put and determined in the affirmative.

And, on motion of Mr. Battelle, the said Report was referred to the Committee on Revision and Engrossment.

Mr. Harrison then moved that the subject of all forfeited, waste and unappropriated lands be referred to a special Committee of seven, and the question being put it was decided in the affirmative.

The President then appointed the following gentlemen said committee:

Messrs. Harrison, Smith, Stevenson of Wood, Brown of Kanawha, Irvine, Hall of Marion, and Van Winkle.

Mr. Dering then moved that the Report of the Committee on Taxation and Finance be taken up and made the order of the day for 3 o'clock this afternoon.

Mr. Stuart, of Doddridge, moved to amend the motion by taking up the Report of the Committee on County Organization on its second reading, which was disagreed to and the motion of Mr. Dering adopted.

On motion of Mr. Stuart, of Doddridge, the President was directed to lay before the two houses of the General Assembly of Virginia, the Section of the Constitution fixing the boundaries of the proposed new State, and to request their consent to the formation and erection of the said new State.

The Convention then took a recess.

3 O'CLOCK, P. M.

The Convention re-assembled.

The Report of the Committee on Taxation and Finance was taken up as the order of the day.

And, on motion of Mr. Dering the 5th, 6th and 7th Sections of said Report were referred to a Special Committee of nine, as follows:

Messrs. Dering, Smith, Lamb, Ruffner, Harrison, Brumfield, Stevenson of Wood, Sinsel and McCutchen.

Mr. Brown, of Kanawha, moved to amend the 9th Section by striking out the word "portion," and inserting the word "proportion," which was agreed to.

On motion of Mr. Paxton, the Report, as amended, was adopted and laid on the table.

Mr. Battelle then submitted the following resolutions:

1. *Resolved*, That at the same time when this Constitution is submitted to the qualified voters of the proposed new State to be voted for or against, an additional Section to Article ; in the words following:

"No slave shall be brought, or free person of color come, into this State for permanent residence after this Constitution goes into operation; and all children born of slave mothers after the year eighteen hundred and seventy, shall be free—the males at the age of twenty-eight, and the females at the age of eighteen years; and the children of such females shall be free at birth."

Shall be separately submitted to the qualified voters of the proposed new State for their adoption or rejection; and if a majority of the votes cast for and against said additional Section, are in favor of its adoption, shall be made a part of Article of this Constitution, and not otherwise.

2. *Resolved*, That the Committee on the Schedule be, and they are hereby instructed to report the necessary provisions for carrying the foregoing resolutions into effect.

Mr. Sinsel moved to lay the resolutions on the table, and make them the order of the day for to-morrow at 10 o'clock in the morning.

Mr. Hall, of Marion, moved to lay the resolutions on the table without day; and upon this question the yeas and nays were demanded, and the demand being sustained, the motion was adopted—yeas 24, nays 23.

And, on motion of Mr. Powell, the vote was recorded as follows:

YEAS—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Chapman, Carskadon, Dering, Dolly, Hall of Marion, Haymond, Harrison, Hubbs, Irvine, Lamb, Montague, McCutchen,

Robinson, Ruffner, Sinsel, Stephenson of Clay, Stuart of Doddridge, Sheets, Smith, Van Winkle, Warder—24.

**NAYS**—Messrs. Brown of Preston, Brooks, Battelle, Caldwell, Dille, Hervey, Hagar, Hoback, Lauck, Mahon, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Ryan, Simmons, Stevenson of Wood, Stewart of Wirt, Soper, Trainer, Wilson—25.

On motion of Mr. Van Winkle, the amended Report of the Committee on County Organization was taken up on its second reading.

Mr. Harrison moved to amend the 25th and 26th lines by striking out the words "and enact ordinances and by-laws," which was disagreed to.

Mr. Dille moved to amend the 26th line by striking out the word "four," and inserting the word "two," which was rejected.

Mr. Brown, of Kanawha, moved to amend the 26th line by striking out the word "ordinances," which motion was rejected.

On motion of Mr. Smith, the following words were added after the word "by-laws," in the 26th line: "not inconsistent with the laws of this State."

Mr. Sinsel moved to amend the 57th line by inserting after the word "Sheriff," the words "and Prosecuting Attorney," which was rejected.

Mr. Stuart of Doddridge, moved to amend the 57th line by inserting after the word "Sheriff" the words "and Surveyor of Lands," which was disagreed to.

Mr. Sinsel moved to strike out the 9th Section, which being put was decided in the negative.

And, on motion of Mr. Lamb, the Convention adjourned.

## THURSDAY, FEBRUARY 13, 1862.

The Convention met at the usual hour.

The Session was opened with prayer by Rev. Mr. Pomeroy, member of the Convention.

The Journal of yesterday was read and approved.

Mr. Dering, from the special committee appointed on yesterday to take into consideration the 5th, 6th and 8th Sections of the Report of the Committee on Taxation and Finance, submitted the following Report:

The Committee respectfully recommend that the Convention adopt the 5th and 6th Sections of the Report of the Committee on

Finance and Taxation without alteration ; and that the 8th Section be adopted, with the following amendment :

In line 41st of the Report of the Committee on Finance and Taxation, strike out the words "or other association or corporation," and insert "If the State shall become a stockholder in any association or corporation, for purposes of internal improvement, she shall pay for the stock at the time of subscribing, or shall levy a tax for the ensuing year sufficient to pay such subscriptions in full."

Signed by the unanimous order of the Committee.

H. DERING, *Chairman*.

And on motion of Mr. Dering, the Report was adopted.

The Report of the Committee on Taxation and Finance was then adopted as amended.

And on motion of Mr. Lamb said Report was taken up on its second reading.

Mr. McCutchen moved to amend the 10th line by striking out the word "one" and inserting "two," which was disagreed to.

Said Report was then adopted.

And on motion of Mr. Lamb, it was referred to the Committee on Revision and Engrossment.

The President then stated that the business before the Convention was the further consideration of the amended Report of the Committee on County Organization.

Mr. Hall, of Marion, offered the following substitute for the 10th Section of said Report, from the beginning to the word "area," in the 163d line :

"No new County shall be formed containing a white population of less than 3,300, nor if the white population of any other county be thereby reduced below that number ; nor containing an area of less than 200 square miles ; nor if any other county be thereby reduced below that area.

Mr. Wilson moved to amend the amendment by limiting the number of square miles to 400, and the number of white inhabitants to 4,000.

A division being called for, the question was put upon striking out, and decided in the negative.

Mr. Hall, of Marion, moved to amend by striking out the words "and fifty," in the 154th line, and upon this question the yeas and nays were demanded, and the demand being sustained, the motion was disagreed to—yeas 21, nays 20.

On motion of Mr. Brown, of Preston, the vote was recorded as follows :

**YEAS**—Messrs. Brown of Kanawha, Battelle, Caldwell, Carskaden, Dering, Dolly, Hall, Haymond, Hubbs, Hervey, Hoback, Lauck, Parsons, Robinson, Stevenson of Wood, Stephenson of Clay, Sheets, Soper, Trainer, Wilson, John Hall (President)—21.

**NAYS**—Messrs. Brown of Preston, Brooks, Chapman, Dille, Hansley, Harrison, Hagar, Irvine, Lamb, Montague, Mahon, McOutchen, O'Brien, Sinsel, Simmons, Stewart of Wirt, Smith, Taylor, Van Winkle, Warder—20.

Mr. Dolly moved to amend the 159th line by striking out the words "four thousand," and insert "one-half the rates of representation in the House of Delegates."

And on motion of Mr. Van Winkle said report was adopted, as amended, and referred to the Committee on Revision and Engrossment

On motion of Mr. Van Winkle, the Committee on the Schedule to the Constitution were granted leave to have their report printed before submitting it to the Convention.

Mr. Dille then submitted the following additional Section to the Report of the Committee on Fundamental and General Provisions:

"No slave shall be brought, or free person of color come, into this State for permanent residence after this Constitution goes into operation."

And the question being upon the adoption of this Section, the yeas and nays were demanded, and the demand being sustained, the Section was adopted—yeas 48, nays 1.

And, on motion, of Mr. Stuart, of Doddridge, the vote was recorded as follows :

**YEAS**—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Battelle, Chapman, Caldwell, Carskaden, Cook, Dering, Dolly, Dille, Hansley, Hall, Haymond, Harrison, Hubbs, Hervey, Hagar, Hoback, Irvine, Lamb, Lauck, Montague, McOutchen, Mahon, O'Brien, Parsons, Powell, Parker, Pomeroy, Robinson, Ruffner, Ryan, Sinsel, Simmons, Stevenson of Wood, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Smith, Taylor, Trainer, Van Winkle, Warder, Wilson, John Hall, (President)—48.

**NAYS**—Brumfield—1.

Mr. Battelle moved that the said additional Section be referred to the Committee on Revision and engrossment, which was agreed to.

And, on motion of Mr. Dering, the Convention adjourned.

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—FRIDAY, FEBRUARY 14, 1862.

The Convention met at the usual hour, and after prayer by the Rev. Mr. Brooks, the Journal was read and approved.

Mr. Harrison, Chairman of the Special Committee on the subject

of forfeited, waste and unappropriated lands, submitted the following Report :

28. All private rights and interests in lands within this State, derived from the laws of Virginia prior to the time this Constitution goes into operation, shall remain valid and secure under the laws of this State, and shall be determined by the laws then existing in the State of Virginia.

29. No entry by warrant on lands in this State shall be made after this Constitution goes into operation; and in all cases where an entry has been made before that time, and then or thereafter, so perfected as to entitle the locator to a grant, the Legislature shall make provision by law for issuing the same.

30. The Legislature shall make provision for the sale of all lands in this State, forfeited to the State of Virginia for the non-payment of taxes charged thereon for the year one thousand eight hundred and thirty-one, and prior thereto, or for the failure of the owners thereof to have the same entered and charged on the land books of the proper county, with taxes for the year one thousand eight hundred and thirty-one, or prior thereto, under the laws of Virginia, as well as of all waste and unappropriated lands, by proceedings to be had in the Circuit Court of the county where such lands may lie.

31. All lands within the bounds of this State returned delinquent for non-payment of taxes to the State of Virginia, or forfeited for the failure of the owner to have the same entered on the books of the Commissioner of the revenue, since the year one thousand eight hundred and thirty-one, shall, as soon as this Constitution goes into operation, be released and exonerated from forfeiture, and from the delinquent taxes charged thereon; provided, however, that this Section shall not apply in the case of forfeiture of any tract containing more than one thousand acres, and in cases of delinquency to any tract where the amount of taxes, exclusive of damages, shall exceed twenty dollars.

32. And all such lands as have been vested in the State of Virginia as mentioned in the preceding Section either by forfeiture or purchase at the Sheriffs' sales for delinquent taxes, but which shall not be released from such forfeiture, by the proviso thereto, may be redeemed by the former owners by payment to the State of West Virginia of the amount of taxes and damages due thereon within five years after this Constitution goes into operation, and the residue of such lands so vested, and not redeemed, or which shall not be released by this Constitution from such forfeiture or

delinquency shall be treated as forfeited lands. *Provided*, however, that the former owners shall be entitled to the excess of the proceeds of such lands over the taxes and damages due thereon, and the costs of their claim to the same be filed in the Circuit Court within two years from the sale of the land.

On motion of Mr. Van Winkle this Report was taken up for consideration, Section by Section.

The several Sections were then read and adopted.

And, on motion of Mr. Van Winkle, said Report was taken up on its second reading; and the question recurring upon the adoption of the whole Report, it was put and decided in the affirmative; after which it was referred to the Committee on Revision and Engrossment.

On motion of Mr. Dille the Convention adjourned till 10 o'clock to-morrow morning.

## SATURDAY, FEBRUARY 15, 1862.

Mr. Lamb, from the Committee on Revision and Engrossment, made a partial report, which was read by Mr. Van Winkle.

Mr. Lamb moved to amend the 20th Section of the 4th Article, as revised, by striking out the words "unless another time be prescribed by law," which was agreed to.

Mr. Battelle moved to amend the 2d Section of the 8th Article, as revised, by striking out the words "not less than fifty nor more than," and inserting the word "of," in the blank, and the question was put and the amendment adopted.

On motion of Mr. Lamb the revised articles, as far as completed, were ordered to be printed under the supervision of the Committee on Revision and Engrossment.

Mr. Hall, of Marion, Chairman of the Committee on the Schedule, submitted the following Report:

The Committee on the Schedule to the Constitution respectfully recommend that the following provisions be inserted in the Schedule.

By order of the Committee,

E. B. HALL, *Chairman*.

1. It shall be the duty of the President of this Convention, immediately upon its adjournment, to subscribe and cause to be duly certified      copies of the foregoing Constitution with this

Schedule annexed, and to deliver one of said copies to the Governor, and the other copies to the Commissioners hereinafter appointed.

2. It shall be the duty of \_\_\_\_\_ who are hereby appointed Commissioners with full power and authority to act for this Convention upon the receipt of such certified copy, to cause the same to be published once a week for \_\_\_\_\_ successive weeks, in so many of the newspapers published within the boundaries of the proposed State of West Virginia as they may deem necessary, and to distribute properly the printed copies of said Constitution, heretofore provided for by this Convention.

3. Poll books shall be prepared under the direction of \_\_\_\_\_ for each place of voting in the several (fifty-one) counties proposed to be included in said State, said books to contain two separate columns, one to be headed "For the Constitution," and the other "Against the Constitution," and it shall be the duty of the Commissioners and officers who superintended and conducted the election in October last, or such other persons as the Governor or said first named Commissioners may appoint to attend at their respective places of holding elections, and superintend and conduct the election herein provided for, and if they shall fail to attend or act, any two free-holders present may act as Commissioners, administer to each other the prescribed oaths, appoint a conducting officer and clerks to record the votes and qualify them.

4. Said election shall be held on the \_\_\_\_\_ day of \_\_\_\_\_, 1862, and for the causes prescribed in the code of Virginia, the polls may be kept open three days; and if at the time of said election there be in any of said counties any military or hostile assemblage of persons, or other cause to interfere with a full expression of the will of the voters they may assemble at any other place within, or convenient to, their respective counties, and hold an election as herein provided for; and if from any cause said election be not held in and for any of said counties, at the time named, the same may be held at such subsequent time or times as said first named Commissioners may approve, if so done as not to materially delay the submission of the result to the Legislature for its action.

5. The Commissioners, officers and clerks who shall hold said election as aforesaid shall each, before entering upon the duties of his office, take, in addition to the oath now required by the general election law, the oath prescribed by the Convention, which assembled at Wheeling on the 11th day of June, 1861, and said Commissioners and officer shall, as early as practicable after said elec-

tion, aggregate and ascertain the number of votes cast and recorded *for* and the number *against* the Constitution, at the election so by them held and conducted, and the expenses of such election, and shall return and certify the same to said first named Commissioners at Wheeling, to the following effect.

We                      and                      Commissioners and                      conducting officer do certify that we caused an election to be held at                      in the county of                      , at which we permitted all persons to vote who desired, and were entitled to do so, under this Constitution and none other, and that we have carefully added each column of our poll books and find the following result.

|                            |        |         |
|----------------------------|--------|---------|
| For the Constitution       | votes  |         |
| Against the Constitution   | votes  |         |
| Given under our hands this | day of | , 1862. |

To which shall be added the following affidavit:

\_\_\_\_\_County, to-wit:

I,                      a Justice, (or other officer authorized to administer oaths or one of the acting Commissioners), in and for said county, do hereby certify that the above named conducting officer this day made oath before me that the above certificate is correct and true.

Given under my hand this                      day of                      , 1862.

6. All persons qualified to vote under this Constitution shall be entitled to vote on the question of its adoption or rejection; and said first named Commissioners shall provide for taking the vote of such of said qualified voters as may, at the time of said election, be in the armies or service of the United States, whether within or beyond the boundaries of the proposed State, and any other such qualified voters as may be prevented by peril or other obstacle from voting in their respective counties, may vote at any place of voting in any other of the said counties, upon making oath that they have not elsewhere voted on the question.

7. The officers and Commissioners conducting the elections shall preserve their poll books and hold them subject to the order of the said first named Commissioners, who shall provide for their collection and delivery to the authorities of the State of West Virginia; shall ascertain and certify to the Governor of Virginia the result of the said election so held; and if the same results in the adoption of said Constitution, they shall request him, as provided in the 8th Section of the ordinance convening this Convention, to convene, and lay before the General Assembly of the State of Virginia, for

its consent, as provided in the Constitution of the United States, a certified copy of this Constitution, with the result of said vote, and to request said General Assembly, as provided in the 10th Section of said ordinance, to give its consent to the formation and erection of the State of West Virginia, as proposed, and to forward to the Congress of the United States such consent, together with an official copy of said Constitution, with the request that the said State of West Virginia may at once be admitted into the Union of States.

8. Said first named Commissioners shall take such steps, and do all such things as they shall deem expedient, to procure, as soon as possible, the said consent of the said General Assembly and Congress to the formation, erection and admission of the said State of West Virginia; the Legislature whereof, at its first session shall provide for reimbursing the expenses incurred by said Commissioners in the discharge of the duties of their appointment, and may make them a reasonable compensation for their services.

9. When the General Assembly of the State of Virginia, and the Congress of the United States shall severally give their consent to the formation, erection and admission of said State of West Virginia, as proposed, the said Commissioners shall forthwith issue their proclamation, which shall be inserted, for three or more successive weeks, in the newspapers published within the limits of the said new State, declaring this Constitution in operation, and directing an election to be held in every county thereof, at the several usual places of holding elections therein, on such day, not more than sixty days after the consent of Congress shall be obtained as aforesaid, as they shall appoint, and under the superintendence of such persons or former county officers as they shall designate, by name or otherwise, for the choice and election of Judges of the Circuit Courts, and all the State and county officers provided in this Constitution to be elected except Supervisors, and shall provide and do all things necessary to be done in holding such election, ascertaining and certifying the result, and declare the same by proclamation; and shall qualify the State officers elect, the duties of whose offices call them to act at the capital of the State, and shall designate and appoint suitable persons in each of said counties to qualify the county officers elect in their respective counties, and the Judges of the Circuit Courts; and said Commissioners shall have power, if deemed necessary, to reconvene the members of this Convention, on such day as they may prescribe.

10. The duties to be performed by the Commissioners, officers and clerks holding and conducting said election, and the privileges

of the voters, and the penalties attaching for misconduct, on the part of any person, shall be, in all things, as now prescribed by law, and in this schedule.

11. If the first election of Senators, Delegates, Judges and State and County officers is held not more than six months before the first day of January in any year, or within six months thereafter, their respective terms of service, except that of the Governor, shall begin twenty days after such election, but shall end on the day on which they would have ended had they begun on the first day of January. The same provisions shall apply to the first elections of Governor except that the third Tuesday in January shall be substituted for the first day of January,

12. All officers elected or appointed and qualified by authority of the State of Virginia who shall remain in the exercise of the functions of their respective offices within the limits of this State up to the time this Constitution goes into operation, may continue to exercise the same within their respective counties under the authority and in the name of this State until the officers first elected or appointed under this Constitution for the discharge of similar duties are qualified.

13. The records, books, papers, seals and other property and appurtenances of the former Circuit and County Courts shall, when transferred by the Legislature of Virginia to the State of West Virginia, remain in the care and custody of the Circuit Court hereby established for the same county, to which all process outstanding at the time this Constitution goes into operation shall be returned, and by which new process in suits then pending or previously determined in the said former Courts may be issued in proper cases. Copies and transcripts of the records and proceedings of the said former Courts shall be made out and certified by the Courts having the care and custody of such records and proceedings, and shall have the same force and effect as if they had been heretofore properly made out and certified by the said former Courts.

On motion of Mr. Lamb, said Report was taken up for consideration.

The 1st Section being read,

Mr. Van Winkle moved to amend the same by striking out the word "copies" and inserting the word "triplicates," in the 3d line; and striking out the words "of such copies," in the 4th line, and inserting "thereof," which was agreed to.

On motion of Mr. Hall, of Marion, the words "other copies," in the 4th line, were stricken out and the word "others" inserted.

And the first Section was adopted.

The word "Constitution" was inserted in the 9th line, in lieu of the word "copy."

Mr. Van Winkle moved to amend the 2d Section by striking out all after the word "published," in the 10th line, to the word "newspapers," in the 11th line, and insert the words "in all the;" and insert after the words "West Virginia," in the 12th line, the words "willing to publish the same," which amendment was rejected.

Mr. Stevenson, of Wood, moved to amend the 2d Section by striking out the words "once a week for successive weeks," which was agreed to.

On motion of Mr. Van Winkle, the word "heretofore," in the 14th line, was stricken out.

The 2d Section, as amended, was adopted.

On motion of Mr. Brown, of Preston, the following words were inserted in the 16th line of the 3d Section, after the word "books:" "with the oaths and forms of returns herein required, attached thereto."

Mr. Hall, of Marion, moved that the following words be inserted in the 22d line, after the word "last:" "for Delegates to this Convention," which was adopted.

The 3d Section, as amended, was then adopted.

On motion of Stuart, of Doddridge, it was

*Resolved*, That hereafter until otherwise ordered, this Convention will meet at 2 o'clock P. M., instead of three o'clock.

The Convention, at the usual hour, took a recess.

2 O'CLOCK, P. M.

The Convention re-assembled.

Mr. Lamb moved that the Convention order five thousand copies of the Constitution to be printed.

Mr. Dering moved to amend the motion by inserting ten thousand instead of five thousand, which was agreed to.

And the motion of Mr. Lamb was adopted, as amended.

The question then being upon the adoption of the 4th Section of the Schedule, it was read, and the word "materially," in the 41st line, was stricken out.

Mr. Brown, of Kanawha, moved to fill the blank in the 30th line with the "fourth Thursday of May."

Mr. Sinsel moved to amend the motion by inserting "first Thursday of April," which was agreed to—yeas 25, nays 14.

And, on motion, of Mr. Dering, the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brooks, Battelle, Chapman, Dering, Dille, Haymond, Hubbs, Hagar, Irvine, Lauck, Mahon, Parsons, Powell, Paxton, Robinson, Sinsel, Simmons, Stevenson of Wood, Stewart of Wirt, Stuart of Doddridge, Taylor, Van Winkle, Warder, Wilson—25.

NAYS—Messrs. Brown of Kanawha, Brumfield, Cook, Dolly, Hall, Hoback, Lamb, Montague, McCutchen, Ruffner, Stephenson of Clay, Sheets, Walker, John Hall (President)—14.

On motion of Mr. Van Winkle the balance of the report was passed by and the 13th Section taken up.

Mr. Van Winkle moved to amend the 164th line by inserting after the word "Courts," the words "within the bounds of the State of West Virginia," and insert in lieu of the word "when," in the 165th line, the word "be," and striking out all after the word "transferred" to the word "remain," in the 166th line, and inserting in the blank the words "to and," which was agreed to.

The 13th Section was then adopted as amended.

And, on motion of Mr. Van Winkle, said Section was taken up on its second reading.

And the question being upon the adoption of the same, it was decided in the affirmative; and the Section was referred to the Committee on Revision and Engrossment.

The 4th Section was then taken up and adopted, as amended.

Mr. Lamb moved to amend the 5th Section by striking out all from the words "the oath" to the words "1861," and insert the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States, and the laws made in pursuance thereof, as the supreme law of the land, anything in the Constitution and laws of the State of Virginia, or in the Ordinances of the Convention which assembled at Richmond on the 13th of February, 1861, to the contrary notwithstanding," which motion was adopted; after which the 5th Section, as amended, was adopted.

Upon the reading of the 6th Section,

Mr. Brown, of Preston, moved to amend the 77th line, by adding at the end thereof the words "or of the State of Virginia," which was agreed to, and the 6th Section adopted.

Mr. Lamb moved to amend the 7th Section by inserting at the end of the 90th line, the words "by the voters of the forty-four counties first mentioned in the 2d Section of the first Article of this Constitution," which amendment was adopted, after which the said Section was adopted.

The 8th and 9th Sections were then read and adopted.

Mr. Van Winkle then moved to amend the 10th Section by striking out the words "and the penalties attaching for misconduct, on the part of any person," which was adopted.

And the question being upon the adoption of the Section, as amended, it was decided in the affirmative.

The 11th Section was read and

Mr. Van Winkle moved to amend the 152d line, by striking out the words "third Tuesday of January," and insert the fourth day of March, which was agreed to, and the Section adopted.

The 12th Section was then read and adopted.

Mr. Hall, of Marion, then offered the following additional Section:

"In the event of the formation and erection of the proposed new State, the whole cost of this Convention, including the election of its members, the submission of the Constitution to the people, and all other expenses attending the premises shall be refunded to the State of Virginia."

On motion of Mr. Sinsel, the second reading of said report was dispensed with, and it was referred to the Committee on Revision and Engrossment, with power to fill the blanks.

And, on motion of Mr. Parsons, the Convention adjourned till Monday morning at 11 o'clock.

## MONDAY, FEBRUARY 17, 1862.

The Convention met at 11 o'clock, A. M., and after prayer by Rev. Mr. Simmons, the Journal was read and approved.

Mr. Lamb, from the Committee on Revision and Engrossment, submitted the additional articles of the Constitution, which on his motion were ordered to be printed under the supervision of the Committee on Revision and Engrossment.

On motion of Mr. Lamb the Convention took a recess until 5 o'clock this afternoon.

5 O'CLOCK, P. M.

The Convention re-assembled.

Mr. Lamb, Chairman of the Committee on Revision and Engrossment, submitted the revised Schedule to the Constitution, except the names of the Commissioners, which were not reported.

Mr. Brown, of Kanawha, moved to amend the 122d line by inserting after the word "sixty," the words "nor less than fifty."

Mr. Pomeroy moved to amend the amendment by inserting "forty," in lieu of "fifty," which was agreed to.

The amendment, as amended, was then adopted.

On motion of Mr. Lamb the said report was ordered to be printed under the supervision of the Committee on Revision and Engrossment.

Mr. Hoback offered the following resolution, which was rejected:

*Resolved*, That the residue of the money appropriated by the Legislature, to defray the expenses of this Convention be appropriated to pay the mileage of the Delegates to said Convention in proportion to the amount paid for necessary travel.

Mr. Stuart, of Doddridge, moved that when this Convention adjourns to-morrow, it will adjourn *sine die*.

Mr. Lamb moved to postpone the consideration of Mr. Stuart's motion for the present, which was agreed to.

And, on motion of Mr. Battelle, the Convention adjourned till to-morrow morning at 11 o'clock.

## TUESDAY, FEBRUARY 18, 1862.

The Convention met pursuant to adjournment, and was opened with prayer by Rev. Mr. Battelle, member of the Convention.

The Journal of yesterday was read and approved.

Mr. Lamb, Chairman of the Committee on Revision and Engrossment, stated that he was instructed to report that the blank in the 2d Section of the Schedule to the Constitution be filled by inserting the following names: John Hall, James W. Paxton, Elbert H. Caldwell, P. G. Van Winkle and Ephraim B. Hall, which report was adopted.

Mr. Lamb, by instruction of said committee, submitted the following resolution:

*Resolved*, That the balance of the appropriation made by the Legislature to cover the expenditures of this Convention if any be, and the same is hereby placed at the disposal of the President to defray such expenses as may be incurred by the Commissioners appointed by the Schedule, in submitting the Constitution to the people, to the Legislature and to Congress.

And the question being upon the adoption of the resolution, it was decided in the affirmative.

Mr. Lamb, by instruction of said committee, offered the following resolutions:

*Resolved*, That when the Convention adjourns to-day, it adjourn

subject to the provisions of the eleventh Section of the Schedule.

*Resolved*, That if the Convention be again convened the Commissioners take the necessary steps to secure a representation therein from the counties proposed to be included in the new State not at present represented, and to fill any vacancies which may occur.

Mr. Hall, of Marion, offered the following substitute for said resolutions:

*Resolved*, That the 11th Section of the Schedule be stricken out, and that when this Convention adjourn to-day, it do adjourn *sine die*.

And upon this substitute the yeas and nays were demanded, which demand being sustained, it was decided in the negative.

YEAS—Messrs. Brown of Preston, Brown of Kanawha, Carskadon, Cook, Dering, Dille, Hall of Marion, Haymond, Harrison, Hagar, Hoback, McOutchen, Simmons, Stephenson of Clay, Stuart of Doddridge, Taylor, Warder—17.

NAYS—Messrs. John Hall (President), Brooks, Brumfield, Battelle, Chapman, Caldwell, Dolly, Hansley, Hubbs, Hervey, Irvine, Lamb, Lauck, Montague, Mahon, O'Brien, Parsons, Pomeroy, Robinson, Ryan, Sinsel, Stevenson of Wood, Stewart of Wirt, Soper, Trainer, Van Winkle, Walker, Wilson—28.

The resolutions of Mr. Lamb were then adopted, and the second one ordered to be inserted at the end of the 11th Section of the Schedule.

Mr. Lamb, by instruction of said Committee, offered the following resolutions:

*Resolved*, That the Constitution, as submitted by the Committee of Revision and Engrossment, and amended by this Convention, be adopted, and submitted, according to the Schedule, to the voters within the proposed boundaries of the State of West Virginia, for adoption or rejection.

*Resolved*, That a copy of the Constitution and Schedule, authenticated by the signature of the President, and attested by the Secretary, be subjoined to the Journal.

And the question being upon the adoption of the resolutions the vote was recorded as follows:

YEAS—Messrs. Brown of Preston, Brown of Kanawha, Brooks, Brumfield, Battelle, Chapman, Caldwell, Carskadon, Cook, Dering, Dolly, Dille, Hansley, Hall, Haymond, Harrison, Hubbs, Hervey, Hagar, Hoback, Irvine, Lamb, Lauck, Montague, McOutchen, Mahon, O'Brien, Parsons, Powell, Parker, Pomeroy, Robinson, Ruffner, Ryan, Sinsel, Simmons, Stevenson of Wood, Stephenson of Clay, Stewart of Wirt, Stuart of Doddridge, Sheets, Soper, Smith, Taylor, Trainer, Van Winkle, Warder, Wilson, John Hall, (President)—49.

NAYS—0.

On motion of Mr. Stevenson, of Wood, the following resolution was adopted:

*Resolved*, That the bound copies of the journal of the proceedings of this Convention, be left in possession of the Commissioners ap-

pointed by it, to be distributed by them as follows: One copy to each member of the Convention, and the remaining volumes in such manner as they may deem proper.

On motion of Mr. Brown, of Preston, the following resolution was unanimously adopted:

*Resolved*, That the thanks of this Convention are hereby tendered to the President for the able, courteous and impartial manner in which he has presided over their deliberations.

On motion of Mr. Brown, of Kanawha, the following resolution was unanimously adopted:

*Resolved*, That the promptness and correctness of the Secretary in the discharge of his complicated duties has met the approbation of the Convention, and is entitled to this official acknowledgment.

On motion of Mr. Dering, the following resolution was unanimously adopted:

*Resolved*, That the thanks of this Convention are due to the Reporters of the proceedings of this body, for the faithful and impartial manner in which they have reported the proceedings of this Convention.

On motion of Mr. Stuart, of Doddridge, the following resolution was adopted:

*Resolved*, That the thanks of the Convention are justly due, and are hereby presented to the Sergeant-at-Arms, Pages and other officers of this Convention for the prompt and efficient discharge of their respective duties.

On motion of Mr. Soper, the following resolution was unanimously adopted:

*Resolved*, That the clergy of the city of Wheeling and vicinity, who have opened the sessions of the Convention with prayer, are hereby tendered the sincere and grateful acknowledgements of the members.

On motion of Mr. Powell, the following resolution was unanimously adopted:

*Resolved*, That the thanks of this Convention are due to the citizens of this city for their hospitality shown to the members of this Convention.

On motion of Mr. Caldwell, the Convention took a recess until half-past two o'clock this afternoon.

2½ O'CLOCK, P. M.

The Convention re-assembled.

Mr. Brown, of Kanawha, tendered his resignation, which was accepted.

On motion of Mr. Van Winkle, the following resolution was adopted:

*Resolved*, That the Journal of to-day's proceedings be read, approved and signed by the President and Secretary, and that the Convention adjourn in accordance with the resolution passed this morning.

JOHN HALL, *President*.

ELLERY R. HALL, *Secretary*.